

Brownfield Plan/Act 381 Work Plan Approval Policies and Procedures Antrim County Brownfield Redevelopment Authority

Act 381, Public Act 1996, as amended, provides requirements for the consideration and approval of Brownfield Plans and Act 381 Work Plans by local brownfield redevelopment authorities. The following document intends to outline the policies and procedures for consideration of Brownfield Plans and Act 381 Work Plans by the Antrim Brownfield Redevelopment Authority (the "Authority").

Brownfield Plan Requirements

The Authority has set certain minimum requirements that all projects must meet in order to be considered for approval of a Brownfield Plan and Act 381 Work Plan. The Authority may consider a variance to these minimum requirements; however, variances would be provided only under circumstances that have substantial benefit to the community.

Eligible Property and Activities: All property and activities considered under the Brownfield Plan and Act 381 Work Plan must be consistent with the provisions of Act 381. All eligible property must meet the definitions of Act 381 as a Part 201 Facility, blighted, functionally obsolete, or historically designated (or adjacent property that will increase taxable value). All eligible activities must meet the definitions of Act 381 as either MDEQ Environmental Activities (Baseline Environmental Assessment, Due Care and/or Additional Response Activities) or MSF Non-Environmental Activities (Lead and Asbestos Abatement and/or Demolition).

Interest Rate: The Authority may approve the actual rate for developer financing up to the State allowable interest rate (currently 5%) for private financing of eligible activities.

Brownfield Plan/Act 381 Work Plan Preparation: The Brownfield Plan and Act 381 Work Plan are documents of the Authority and such, must meet a minimum standard and format. In order to most effectively meet the Authority's standards, the Authority will prepare the Brownfield Plan and Act 381, with the cost for such preparation paid for through a fee from the Developer to the Authority, as outlined below.

Brownfield Plan/Act 381 Work Plan Fee: An up-front fee is required to be submitted to the Authority upon acceptance of the Project Application by the Authority, as outlined below. The fees range from \$2,500 to \$10,000, based on the project complexity and local budget considerations. If costs for Brownfield Plan and Act 381 Work Plan development and approval exceed the original fee, the Developer will be notified by the Authority and will be responsible for such costs. The fee is a reimbursable Eligible Activity cost under Act 381 and will be included in the Brownfield Plan and Act 381 Work Plan.

Reimbursement Agreement: A reimbursement agreement must be executed between the developer and the ACBRA which outlines the responsibilities of each party and the terms and conditions under which the project must proceed and reimbursement for eligible expenses must be made. The Reimbursement Agreement will include obligations and processes that represent Authority policy and procedures in the implementation of the Brownfield Plan. The Reimbursement Agreement will be negotiated with each project developer, with changing terms and conditions, based upon the project and the circumstances. Some of these terms are described below in the Project Implementation section.

Approval Process

Act 381 requires certain steps for the approval of a Brownfield Plan by the Authority and the County Commission, with the concurrence of the local governmental unit in which the project is located, as well as the approval of an Act 381 Work Plan by the Authority and the State for State taxes. The Authority has established the following process to facilitate the approval and implementation of Brownfield Plans and Act 381 Work Plans.

Application: An application prepared by the developer and submitted to the ACBRA can help determine whether a project is eligible under Act 381 and meets the goals and objectives of the ACBRA. The application includes general information about the project including location, description of proposed redevelopment, qualification of eligible property (Part 201 Facility, blighted, functionally obsolete, historically designated), justification of public purpose, development principals, total estimated investments, and total estimated eligible activity costs. The application will be shared with the local governmental unit and the County Commission for review and comment.

Draft Brownfield Plan: A draft Brownfield Plan will be prepared and submitted to the designated contact person for the Developer at least 10 business days prior to the regular meeting of the Authority for review and comment. Comment must be provided no later than 7 business days before the meeting for inclusion in the Authority packet. The draft Brownfield Plan will be reviewed at the meeting and the Authority may either approve, deny, or request modifications for subsequent consideration. The Authority may recommend at this time that the local governmental unit governing body consider concurrence and that the County Commission hold a public hearing on and consider the Brownfield Plan.

Notice for Public Hearing and to Taxing Jurisdictions: A notice of public hearing convened by the County Commission on the Brownfield Plan is sent to a newspaper of general circulation and a notice of the public hearing and information on the fiscal and economic implications of the project is sent to taxing jurisdictions.

Local Government Concurrence: In accordance with Act 381, the local governmental unit governing body must concur with the Brownfield Plan in order for the Brownfield Plan from the County Brownfield Authority to take effect.

Public Hearing: The County Commission will hold a public hearing on the proposed Brownfield Plan and may approve or deny the Brownfield Plan, or request modifications for subsequent consideration.

Act 381 Work Plan: In order to capture State taxes, an Act 381 work plan, consistent with Act 381 and State guidelines, must be submitted to and approved by the Authority and submitted by the Authority to and approved by the MDEQ for Environmental Eligible Activities and MSF for Non-Environmental Eligible Activities.

Reimbursement Agreement: A reimbursement agreement must be executed between the developer and the ACBRA which outlines the responsibilities of each party and the terms and conditions under which the project must proceed and reimbursement for eligible expenses must be made. If State taxes for Non-Environmental Eligible Activities are being requested, the reimbursement agreement must be executed and attached to the Act 381 Work Plan submittal to the MSF.

Reimbursement of BEA Activities Prior to Brownfield Plan Approval: Act 381 provides for the reimbursement of Eligible Activities prior to the approval of Brownfield Plan to allow for circumstances where the property acquisition needed to proceed, if approved by the Authority

and, in the case of State tax capture, inclusion in an Act 381 Work Plan and approval by MSF and MDEQ. Generally, the Authority will not approve Eligible Activities prior to Brownfield Plan approval; however, requests can be made and will be considered on a case by case basis.

Project Implementation

Once all the incentives are approved and the reimbursement agreement is executed, Eligible Activities can begin. There are specific items to be addressed in project implementation.

Work Plans: Prior to initiating Eligible Activities, a work plan which details the scope of work to be conducted under the Brownfield Plan and Act 381 work plan must be submitted to the designated representative of the Authority. Any questions or issues with the work plan and reimbursement eligibility will be addressed with five business days of submittal.

Invoice Approval: Once eligible activities are conducted, the developer must submit invoices and other documentation, including full waivers of lien from all subcontractors, to verify the actual Eligible Activity expenses within 90 calendar days of the date of payment and at least 20 business days prior to the Authority meeting. The documentation will be submitted to the Authority for consideration. All expenditures must be approved by the Authority, which will be considered reimbursement obligations under the development agreement and Act 381.

Procedures for Tax Capture and Reimbursement: Once the Brownfield Plan is approved, a letter should be sent from the Authority to the local government treasurer responsible for tax collection. The letter should include the date of approval for the Brownfield Plan, the initial taxable value and year, and the total approved obligation.

Disbursement: As tax increment revenues are captured, disbursements will be made in accordance with the Reimbursement Agreement. Generally, the allocation for administrative and operating costs is paid first, with an allocation to the Local Site Remediation Fund, if applicable, and the balance to the developer. If the County or ACBRA issues a bond for Eligible Activities related to the project, payment of the bond obligations takes the highest priority of all obligations.

Insurance: The Developer and any contractors or subcontractors must provide, with the Authority and the County named as additional insured, insurance in the types and amounts provided in the Reimbursement Agreement. For any contractors or subcontractors engaging in environmental response activities, including environmental consultants, Contractor's Pollution Liability Insurance must be provided, with the Authority and the County named as additional insured.

Local Site Remediation Fund: Act 381 allows for the capture of taxes for deposit into a local site remediation fund during the time of capture or five years after the eligible activity costs are paid off, or both. State tax capture is limited to an amount equivalent of the state tax capture for eligible activities.

The Authority may allocate a portion of the annual tax capture throughout the life of the project to the local site remediation fund. This capture would be in addition to administrative and operating costs and Eligible Activity reimbursement.

Administrative and Operating Costs: Act 381 provides for reasonable and necessary administrative and operating costs for the brownfield authority as an eligible activity from **local taxes only**. The Brownfield Plan should include the total amount of administrative and operating costs anticipated. The annual capture amount can be a fixed amount (the total divided by a set number of years) or a percentage of the annual local tax capture.