



City of Farmington Hills
Brownfield Redevelopment Authority
Policy and Procedures

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Contact: Cristia Brockway
Economic Development Director
cbrockway@fhgov.com | 248-871-2506

1.0 Background and Purpose

On February 14, 2000, the Farmington Hills City Council established Brownfield Redevelopment Authority (BRA), in which the entire city was eligible to participate, in accordance with the Brownfield Financing Act, Act 381 of the Public Acts of the State of Michigan of 1996, as amended (Act 381).

The purpose of the Brownfield Redevelopment Authority (Authority) is to encourage the redevelopment of eligible property classified as a "facility", historic resource, functionally obsolete, or blighted, as defined by Act 381 and the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of the State of Michigan of 1994, as amended (Act 451). The BRA is authorized to administer a Brownfield Redevelopment Program (Program), which provides economic incentives through the use of Tax Increment Financing (TIF) revenues to pay for or reimburse public or private costs of "eligible activities".

The Program also supports the use of additional economic incentives and financing mechanisms to assist with the redevelopment of eligible property. This may include economic development programs administered by the Michigan Economic Development Corporation (MEDC), Michigan Department of Environment, Great Lakes and Energy (EGLE), and the United States Environmental Protection Agency (EPA), and other state or federal agencies.

2.0 Policies

2.1 Eligible Activities

The BRA is authorized to allow the use of Tax Increment Financing (TIF) revenues to pay for or reimburse public or private costs that qualify as "eligible activities".

Eligible Activities may include:

- Baseline Environmental Assessment (BEA) activities
- Due care activities (which limit exacerbation of, or exposure to, contamination on a site)
- Additional response activities
- Reasonable costs of preparing a Brownfield Plan, Act 381 Work Plan and actual cost of Work Plan review
- Demolition (above and below ground)
- Lead Based-Paint and Asbestos Assessment and Abatement
- Michigan State Housing Development Authority (MSHDA) affordable and/or subsidized housing opportunities and/or qualified rehabilitation of existing structures as described in Section 2(vv) of the Brownfield Act.
- Infrastructure improvements that directly benefit eligible property, site preparation that is not a response activity.
- Interest on unreimbursed eligible activities
- Administrative fees
- Capture for the Local Brownfield Revolving Fund (LBRF)

- Reasonable cost of environmental insurance
- Relocation of public buildings or operations for economic development purposes
- Legal fees not in the ordinary course of acquiring and developing real estate

This list of eligible activities is subject to change over time. Please refer to the most current version of Act 381 and applicable state guidance to confirm whether activities for your project qualify under Act 381.

2.2 Qualification for Brownfield Incentives

The following criteria must be satisfied, at the sole discretion of the City of Farmington Hills and the BRA in order for a brownfield plan to be approved. Projects are evaluated on a case-by-case basis, and additional criteria not set forth below may be considered.

1. The proposed project site must meet the definition of an “eligible property” as defined in Act 381. Eligible property in the City of Farmington Hills is defined as either a “facility”, functionally obsolete, blighted or a historic resource. Property that is owned, or under the control of, the State of Michigan Land Bank Authority or a county Land Bank Fast Track Authority, qualify as “eligible properties” under Act 381.
2. The BRA supports inclusion of the eligible property in the Brownfield Plan and use of TIF to support the proposed Brownfield Project.
3. The proposed redevelopment for the eligible property is consistent with the current master plans, zoning ordinances and community, sustainability, and economic development goals of the City.
4. The existing character of the eligible property is such that the redevelopment activities would likely not occur, or would not be feasible, without Brownfield assistance provided by Act 381 and/or other incentive programs.
5. In addition, the project developer commits to explore all other private and public funding sources, as determined in consultation with the BRA.
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 Act 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 has adequate access to the necessary public infrastructure and utilities needed to serve the proposed redevelopment project, as determined by the City's Community Development and Engineering Departments.
9. The BRA reserves the right to consider other factors as applicable to a specific project and its impact on neighboring properties.
10. Completing the project will adequately address the brownfield conditions upon which the need for the financial assistance was requested.

2.3 Qualification for Local-Only Reimbursement

The BRA will consider costs of all eligible activities as defined in Act 381 to be reimbursed with both incremental local and school TIF to the extent practical; however, there are circumstances when reimbursement with local-only tax increments will be approved. Each such project and eligible activity for which reimbursement with local only tax increments is proposed will be considered on case-by-case basis and must meet the following additional criteria:

1. The developer must confirm, in a manner satisfactory to the BRA, that its project was presented to the Michigan Economic Development Corporation (MEDC), MSHDA, and/or the Department of Environment, Great Lakes, and Energy (EGLE), as applicable, to request approval of school TIF capture for the project. The developer shall, at the request of the BRA, include the BRA or its delegate(s) in the discussion with the state agencies to determine whether school TIF could be captured.
2. Reimbursement of the costs of eligible activities and interest using local only TIF will be considered only if the following conditions are met.
 - a. All activities are eligible under Act 381
 - b. Need and rationale for the local-only capture, based on project economics and/or schedule demands, must be demonstrated.
 - c. Descriptions and costs of activities and interest must be included in an approved Brownfield Plan.
3. Eligible activities completed on an eligible property prior to the approval of the Brownfield Plan may be considered for local only reimbursement.
 - a. On all eligible activities whether environmental or non-environmental
 - b. Activities were incurred no earlier than 90-days prior to City Council approval of the Brownfield Plan, unless good reason can be shown why earlier-incurred expenses should be included.
 - c. All criteria described in Section 2.2 above are met.
4. Eligible activities that are conducted after Brownfield Plan approval and are included in a Work Plan Submitted to EGLE or MSF for approval, but are not approved by EGLE or MSF, or such Work Plan approval is not sought, will be considered only if all the following criteria are met:
 - a. Must be an eligible environmental or non-environmental activity as outlined in section 2.1.
 - b. All criteria described above are met.
5. On a case-by case basis interest on costs of eligible activities will be reimbursed with local-only taxes if one of the following criteria is met:
 - a. Costs for eligible activities, for which local-only interest is requested, are not eligible or were not approved for reimbursement with school taxes and were approved for local-only reimbursement as described above.
 - b. Capture of local taxes for reimbursement of interest costs for eligible activities was denied by EGLE or MSF
 - c. Reimbursement is approved by both the BRA and City Council in response to exceptional project circumstances.

2.4 Qualification for Eligible Activities Prior to Brownfield Plan Approval

1. Non-environmental eligible activities completed on an eligible property prior to the approval of the Brownfield Plan will be considered for school and local reimbursement provided these eligible activities are defined in an Act 381 Work Plan and are:
 - a. Only non-environmental activities that are eligible within the City of Farmington Hills and included in an approved Brownfield Plan
 - b. Submitted to and approved by the MSF
 - c. Eligible activities costs were incurred no earlier than 90-days prior to City Council approval of the Brownfield Plan.
2. Environmental eligible activities completed on an eligible property prior to the approval of the Brownfield Plan will be considered for school and local reimbursement for:
 - a. Baseline Environmental Assessment activities that include:

- i. Phase I Environmental Site Assessments (ESAs)
 - ii. Phase II ESAs
 - iii. Baseline Environmental Assessments (BEAs)
- b. Due Care Planning Activities
- c. Activities conducted no earlier than 12/31/2012

2.5 Administrative Cost Reimbursement

1. Annual reimbursement of reasonable and actual BRA administrative and operating costs from local taxes is permitted under Act 381 of 1996, as amended. Each Brownfield Plan will include capture of administrative fees to cover actual expenses related to operating of the Brownfield Redevelopment Program.
2. For reimbursement of actual administrative expenses, the BRA will transfer to its Administrative Fund ten percent (10%) of annual TIF capture, not to exceed 10% of the total actual, certified, developer-reimbursable eligible activity costs. Actual administrative expenses will be reimbursed with local-only incremental taxes. A minimum annual administrative fee of \$2,000 will be charged, regardless of the available TIF in any given year.
3. Actual administrative expenses include the following:
 - a. Assistance provided to consultants and developers to prepare Brownfield Plans and Work Plans
 - b. Review and approval of Brownfield Plans and Work Plans
 - c. Preparation, review, and approval of Reimbursement and/or Development Agreements
 - d. Review and approval of actual eligible activities.
 - e. Managing and accounting TIF capture and disbursement
 - f. Managing and accounting eligible activity reimbursement
 - g. Managing and distributing funds from the Local Brownfield Revolving Fund (LBRF)
 - h. Community education and outreach
 - i. Other reasonable and administrative operating expenses of the Authority, including legal and consulting fees

2.6 Local Brownfield Revolving Fund (LBRF) Capture

It is the intent of the BRA to capitalize the Local Brownfield Revolving Fund (LBRF). The BRA intends to include provisions to capture revenues for deposit into the LBRF in the approved Brownfield Plan for each project. The BRA may, in its sole discretion, capture all or a portion of the available LBRF funds during the term of the Brownfield Plan or after the reimbursement period for eligible activities for a period not-to-exceed five years in accordance with Act 381, or both.

LBRF funds will be used in accordance with the current LBRF Policy, adopted by the BRA and subject to the restrictions of Act 381, as amended. A LBRF application must be completed by the applicant and submitted to City staff if BRA LBRF revenues are being considered for a project.

The BRA intends to capture LBRF funds pursuant to the following criteria:

1. The BRA will capture local and school TIF, if applicable, to the extent allowed by Act 381, to fund the LBRF until funds in the following amount have been placed in the LBRF.
2. The rate and schedule of incremental tax capture for LBRF will be determined on a case-by-case basis. Considerations will include, but not limited to the following: total capture

duration, total annual capture, project economic factors, and level of existing LBRF funding, and projected need for LBRF funds.

3. School taxes for EGLE eligible activities can be captured for LBRF deposit, but school taxes for MSF activities cannot be captured for LBRF deposit. The amount of school taxes deposited into the LBRF for EGLE activities cannot exceed the total amount of school taxes used to reimburse eligible activities.
4. If an approved Brownfield Plan does not provide for the capture of incremental school taxes, or provides for reimbursement of only MSF eligible activities, LBRF capture will derive solely from the local TIF. In these circumstances, the impact of LBRF funding on the duration of the local capture will be considered in determining the amount and schedule for LBRF capture.
5. Exceptions to this policy due to extraordinary circumstances will be considered on a case-by-case basis.

2.7 Brownfield Plan Termination

Unless otherwise agreed to in writing by the BRA, a Brownfield Plan may be terminated by the BRA and no longer valid if:

1. The Developer and the BRA have not finalized and executed the Reimbursement Agreement, if required; within one year (365 days) after the date the Brownfield Plan is approved by City Council.
2. The Eligible Activities have not begun within three (3) years of City Council approval of the Brownfield Plan.
3. The developer has not followed the appropriate Reimbursement Process within three and a half years as outlined in section 3.6 below.
4. As otherwise provided by law.
5. In no event, however, shall the Plan extend beyond the maximum term allowed by Section 13(1)(f) of Act 381, for the duration of the Plan.

3.0 Procedures

The City of Farmington Hills and the BRA recognize the importance of development project schedules and will expedite the Brownfield Plan review and approval process to the greatest extent practical.

The following summarizes the typical steps for accessing available Brownfield incentives in Farmington Hills. The procedure may be adjusted if the applicant proposes completing a combined Brownfield Plan and Act 381 Work Plan.

All documents which are to be reviewed and/or acted on by the BRA must be distributed to the Chairman and BRA Board members at least one week prior to the meeting date or the item will be removed from the agenda.

3.1 Pre-Application: Project Concept Application Submittal

1. The applicant must complete a Project Concept Application (Application) and submit to Cristia Brockway at the City of Farmington Hills to initiate the Brownfield process with the BRA. Please refer to the Application for details on the requested information. Applications will be considered only when accompanied with a non-refundable application fee based on the total project investment.

\$0 – 5 Million	\$1,000
\$5 – 10 Million	\$2,000
\$10 Million and above	\$3,000

2. City staff and the BRA will review the information and work with the developer if revisions are necessary.
3. Following administrative review, information will be forwarded to the BRA for formal review and consideration at a public meeting. It is recommended that the applicant attend the meeting to present the project.
4. If the applicant's project is supported by the BRA, the BRA will recommend the developer proceed with a Brownfield Plan. If the BRA approves a project application, it is not obligated to approve the Brownfield Plan.
5. Developer shall reimburse the BRA and the City of Farmington Hills for its actual legal, consulting and other professional costs, in addition to the application fee.

3.2 Brownfield Plan Development

1. Once the Application is supported by the BRA, the applicant must develop a Brownfield plan. The Brownfield Plan must include all sections identified in Act 381, Section 13(1) (MCL 125.2663 Brownfield Plan; Provisions). The site must be an eligible property and all activities must be eligible activities as defined in Act 381, as amended.
2. If the applicant is seeking school tax reimbursement, the applicant must meet with City staff, EGLE and/or the MEDC to determine the level of support for the project.
3. City staff will review the Brownfield Plan and work with the developer if revisions are necessary.

3.3 Brownfield Plan Approval

The Brownfield Plan must be approved by the BRA and City Council. The Brownfield Plan approval process consists of the following activities:

1. City staff will provide the Brownfield Plan (produced as described in Section 3.2 above) to the BRA for their consideration.
 - a. It is the intention of the BRA that all meetings be conducted as Open Meetings. However, at times the Board may have reason to conduct closed meetings in accordance with the law.
2. If the BRA approves the Brownfield Plan, a Public Hearing will be scheduled by City Council
3. Following the Public Hearing, City Council considered the Brownfield Plan for approval.
4. If the Brownfield Plan is approved by City Council, a resolution shall be executed, and City staff and the BRA will proceed with a Reimbursement Agreement.

3.4 Reimbursement Agreement Execution

Following the approval of the Brownfield Plan, a Reimbursement Agreement must be executed. City staff will provide the most current Reimbursement Agreement template to the applicant. The applicant should fill in required information using the template, then work with City staff to finalize. The Reimbursement Agreement must be approved by the BRA, then fully executed in accordance with the City Contract Procedures. This includes the applicant filing as a vendor with the City and providing the required insurance.

3.5 Act 381 Work Plan Approval

If the Brownfield Plan includes the capture of school taxes for eligible activities, an Act 381 Work Plan (Work Plan) must be completed in accordance with the requirements of Act 381 and guidance published by EGLE/MEDC and submitted to City staff. City staff will review the Work Plan and work with the Applicant and the Applicant's representative to finalize it. City

staff then will coordinate with the appropriate agency(s) for the submission and review of the Brownfield Plan, Act 381 Work Plan, and other necessary documents as follows:

1. If the TIF includes capture of school taxes for environmental activities, City staff will submit a completed Work Plan to EGLE.
2. If the TIF includes capture of school taxes for non-environmental eligible activities, City staff will submit a completed Work Plan to the Michigan Economic Development Corporation (MEDC) to review on behalf of the Michigan Strategic Fund (MSF).
3. If the TIF includes capture of school taxes for housing-related eligible activities, City staff will submit a completed Work Plan to the Michigan State Housing Development Authority for review and approval.
4. Each Work Plan submission must include the approved Brownfield Plan, a signed Development Agreement or Reimbursement Agreement and other documents and information as required by the MEDC.

3.6 Reimbursement Process

The following outlines the conditions that must be met before reimbursement will occur.

1. The BRA will begin the reimbursement process after the following have been completed:
 - a. The Brownfield Plan has been approved.
 - b. The Reimbursement Agreement has been executed.
 - c. The Act 381 Work Plan has been approved by EGLE, MSF or MSHDA, or their delegates, as appropriate.
 - d. The approved eligible activities have been completed and/or initiated.
 - e. All the appropriate invoices and documentation for actual costs incurred to conduct the approved eligible activities have been submitted and reviewed by the BRA, subject to the conditions outlined in the reimbursement agreement.
 - f. TIF capture has begun subject to the following:
 - i. All taxes and special assessments due or owing to the City and/or County are paid in full
 - ii. The tax year is within TIF capture period specified in the Brownfield Plan and Act 381
2. The BRA will only reimburse the actual costs to conduct approved eligible activities. The BRA uses only the incremental taxes generated by the redevelopment project to reimburse approved eligible activities, and the yearly reimbursement amount is based on the actual yearly incremental taxes collected.
3. Invoices, eligible activity documentation and proof of payment must be submitted to the BRA within 180 days of the incurred cost, unless waived by the BRA or otherwise provided for in the Brownfield Plan. The actual eligible activity cost should be summarized in a form like the Eligible Activity Tracking Table provided in the Reimbursement Agreement.
4. Failure to produce invoices, eligible activity documentation and proof of payment to the BRA within 180 days of the incurred cost may result in forfeiture of the available tax increment revenue for those eligible activities under the Plan.
5. For costs incurred prior to the approval of the Brownfield Plan, invoices must be submitted 180 days after approval of the Brownfield Plan.
6. If invoices, eligible activity documentation and proof of payment are not provided, the plan shall expire and no longer be valid as outlined in Section 2.8 above.

The actual amount of TIF reimbursement in any year may be reduced by the amount of TIF allocated for the reimbursement of BRA administrative expenses, funding the LBRF and

reimbursement of 3 mills of SET, as provided in the approved Brownfield Plan, Reimbursement Agreement, and Act 381.

4.0 Associated Costs

4.1 Brownfield Plan Preparation Agreement

The developer is responsible for payment of all the BRA or City of Farmington Hills third-party invoices, legal, consulting and professional fees associated with the preparation of the Brownfield Plan, any amendments to that Plan, the Reimbursement Agreement and review and tracking of eligible expenses.

5.0 Brownfield Grant

- 5.1 The grant dollars will be used to further the purpose of the Brownfield Program, which is to facilitate the redevelopment of previously developed sites which are eligible under Act 381 as a "facility", historic resource, functionally obsolete or blighted, or as otherwise eligible, as defined by PA 381 of 1996, as amended (Act 381).
- 5.2 The project provides a benefit to the City or region by creating or improving recreational, tourism, or educational opportunities; supporting or improving governmental operations; removing blight; redeveloping brownfields; redeveloping and/or repurposing economically inefficient buildings; providing affordable or workforce housing; or providing other social support and public services. The host community government provides a resolution of support. Funding or funding commitments sufficient to complete the project are available.
- 5.3 Persons interested in the Brownfield Grant must provide all detailed information as specified on the Brownfield Redevelopment Authority Grant Application before consideration. The Economic Development Director must receive the application and provide a preliminary review. If all materials are accepted, the Economic Development Director will reach out to schedule an interview regarding the interest of the grant, to which the Director will determine the applicant's proposal to the BRA on a scheduled date.
- 5.4 All projects related to development, the repurposing of a building, redevelopment, reconstruction, or mitigation must receive a preliminary review, prior to the submittal of a Brownfield Grant Application, with the respective departments to determine if Planning, Building, Zoning, Engineering, and fire-related code requirements are complete and/or permitted. Any projects related to functional obsolescence are recommended to be reviewed by the City Assessor prior to the request of an Assessor's Note.
- 5.5 The maximum grant amount available is \$200,000 per fiscal year. Property owners shall be eligible to apply for grants from the Authority not more than once every five years.
- 5.6 If the applicant's project includes activities such as demolition, infrastructure improvements (roads, utilities, parking, etc.), lead, or asbestos abatement, and site preparation, or other eligibilities under the Oakland County Land Bank Authority reach out to the Economic Development Director.

6.0 Contact Information

Persons interested in the Brownfield Program are encouraged to contact Economic Development Director, Cristia Brockway at 248-871-2506 or cbrockway@fhgov.com. The office mailing address is 31555 W Eleven Mile Road, Farmington Hills, MI 48336.