

Brownfield Incentives Policy

City of Rochester Hills

Adopted by the Brownfield Redevelopment Authority March 20, 2014

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Introduction

Brownfields are properties that have been impacted from historical activities and where the expansion, redevelopment, or reuse of the property may be complicated by those historical activities. The City of Rochester Hills (the City) is dedicated to building a partnership between its citizens, developers and the regulatory authorities in order to return Brownfield properties to active and appropriate reuse. To facilitate this partnership, Brownfield incentives are available in the City and are provided to assist developers with the extra-ordinary costs of redeveloping impaired properties. The City encourages anyone developing a Brownfield property in the City to discuss these incentives with the Rochester Hills Planning Department.

This policy is designed to promote the use of City Brownfield incentives for projects that will:

1. Incorporate a preference for source control, active remediation, or mitigation;
2. Create full time jobs;
3. Provide an increase in taxable value to the property and a potential beneficial effect in the area that would not have occurred without the incentives; and
4. Use these incentives only after all other sources of funding for eligible activities have been exhausted.

Available Incentives

There are several types of funding incentives that can be used to assist Brownfield redevelopment. These include, among others, tax increment financing, revolving loan funds, low interest loans and grants. All incentives require one or more of the parcels in a project be classified as a “Brownfield” as defined by Public Act 381.

Pursuant to this policy, potential developers may identify Brownfields and apply for local and state Brownfield incentives for redevelopment. The City will consider each application on a case-by-case basis based on the merits of the particular plan and intended future use of the property. This policy applies only to Brownfield tax increment financing and State of Michigan Brownfield incentives. For information on other incentives, please contact the Rochester Hills Planning Department as listed below.

For Brownfield tax increment financing, the cost of certain eligible activities may be reimbursed through capture of taxes on the increased taxable value resulting from redevelopment. This tax capture can apply to both local and state property taxes. Eligible activities in the City include:

- Environmental Assessments (ex. Phase I, Soil and Groundwater Investigations, Baseline Environmental Assessments)
- Response Activities
- Due Care Plans
- Remediation and Engineered Controls
- Demolition
- Pre-demolition asbestos abatement
- Other actions necessary to protect the health, safety, welfare, environment, or natural resources

Interest costs are not considered to be an eligible activity under this policy. However, under extreme circumstances the applicant may attempt to demonstrate to the City the need for interest to cover a financing gap. Whether or not the applicant successfully demonstrates such a need will be determined at the sole discretion of the City. In the event that interest is considered eligible, the maximum interest rate or amount of interest will be determined by City Council.

Applicants are encouraged to obtain approval for school tax capture as appropriate for the eligible activities requested. Local tax capture for eligible activities will be limited to the proportional share that captured local tax mills have to the total property taxes, even in cases where state tax capture is not approved. The exception will be those cases where there is a compelling local interest.

The applicant is responsible for keeping detailed records of all eligible expenses and investments, including purchase orders, invoices, waiver of liens, contracts and records of payment, and for providing these to the City when requesting the incentive. Final reimbursement will be based on the records provided, and the City is not responsible for incomplete or inaccurate records.

Eligible Projects

A construction, redevelopment, renovation or reconstruction project can be eligible for Brownfield incentives in the City if it meets all of the following criteria:

1. The property is located in the City of Rochester Hills;
2. The property is an eligible property as defined by Act 381; and
 - a. For example, it is classified as a facility (as defined by Part 201 of PA451) by having identified hazardous substance contamination in soils or groundwater that is in excess of the unrestricted residential closure criteria established by the MDEQ, or it is adjacent and contiguous to a facility and the development of the project is estimated to increase the captured taxable value of the parcel that is a facility.
3. The applicant has completed a Phase I ESA prior to purchase, and, if the property is a facility, has, or will, submit a Baseline Environmental Assessment (BEA) to the MDEQ within 45 days of purchase or occupancy.

An eligible project can be considered for Brownfield incentives in the City if it meets all of the following criteria:

1. The project Internal Rate of Return indicates that it requires incentives to be successful and would not occur without the incentives, and
2. The development will ameliorate threats to public health or the environment that were caused by site conditions through remediation, mitigation or control or redevelopment of an historic resource.

A project cannot be eligible for Brownfield incentives in the City if it meets any of the following criteria:

1. The applicant is responsible for the hazardous substance contamination identified at the property, or
2. The applicant is not an innocent landowner as defined by Act 381, or
3. The parcel on which development is proposed is not an eligible property as defined by Act 381.

Projects will be evaluated based on, but not limited to, the following criteria:

- Amount of property tax generated
- Amount of investment on a square foot basis
- Job retention, creation and quality
- Location
- Existence of abandoned, blighted or functionally obsolete buildings
- Amelioration of threats to public health or the environment
- Whether the project will provide additional beneficial effects on the surrounding area and the community as a whole.

Eligible projects will be required to submit the following documents to the City for review. For documents required by MEDC or MDEQ, the City will submit these to the MEDC and/or MDEQ after review.

- A Brownfield Program Application
- A Brownfield Plan or combined Brownfield Plan/381 Work Plan if school tax capture is requested
- Phase I ESA completed before purchase
- Baseline Environmental Assessment, if applicable
- Reimbursement Agreement

Brownfield Plan and 381 Work Plan Submittals

Applicants may submit a Brownfield Plan, a 381 Work Plan or a Combined Brownfield/381 Work Plan (the Plans). All Plans must be submitted to the Brownfield Redevelopment Coordinator. Plans must be written in a font no smaller than 11 point, including all tables and attachments.

Public Act 381 outlines all the necessary information that should be contained in the Plans. However, the City requires the following additional information be included in each Plan.

- a. The basis for eligibility as a facility under Part 201 of Public Act 451
- b. A map indicating the eligible property and including parcel boundaries and parcel numbers
- c. A map indicating the location and extent of impacts that exceed the unrestricted residential closure criteria established by the MDEQ for soil, if applicable
- d. A map indicating the location and extent of impacts that exceed the unrestricted residential closure criteria established by the MDEQ for groundwater, if applicable
- e. Detailed cost estimates for remediation, mitigation or control methods selected
- f. List of contractors and subcontractors selected for each task
- g. An itemized list for all eligible activities for which reimbursement is being requested, listing any contingency as a separate item
- h. An evaluation of the five year Internal Rate of Return for the project, including with incentives and without incentives
- i. A separate table for each parcel indicating the annual impact of tax capture on each taxing jurisdiction, including the maximum capture permissible under Public Act 381 for the City's local revolving loan fund, and the annual RHBRA administrative fee
- j. Attach the most recent Soils and/or Groundwater Investigation Report or BEA that is the basis for the Brownfield designation.
- k. A statement that the Brownfield Plan duration will be no more than one year beyond the capture period for the City's local revolving loan fund, or a maximum of 30 years, whichever is less

Each Plan must include the following in the tax capture calculation:

- The City requires an annual administrative fee to be paid from tax increment financing. The fee will be 5% of the tax increment captured for each year of capture.
- Tax capture for the City revolving loan fund will be included each year at 3% of the annual tax capture, and for five years following reimbursement of the applicant, to the maximum amount permitted.

Unless otherwise agreed to in writing by the RHBRA, Plans will expire and no longer be valid if the applicant does not execute a Reimbursement Agreement within one hundred and eighty days of the date the Plan is approved by City Council. To remain eligible for the approved incentives, eligible activities must start within eighteen months of Plan approval, construction must start within two years of the executed Reimbursement Agreement, and construction must be completed within three years of the estimated completion date.

Reimbursement will be adjusted based on actual expenditures on eligible activities and investments, but shall not exceed the total amount listed in the approved Plans, and in no event shall the Plan extend beyond the maximum term allowed by Section 13(1)(f) of Public Act 381. The reimbursement period will be defined as the number of years required for reimbursement as determined in the Plan. Reimbursement of eligible activities included in the Plan will be provided only during the reimbursement period, regardless of the amount of actual reimbursement provided during that period. Any requests for an extension of the reimbursement period must be provided in writing to the RHBRA one year prior to expiration of the reimbursement period. Tax capture estimates included in the Plans are for illustration purposes only and do not represent actual payments.

Brownfield Redevelopment Authority

The City of Rochester Hills has established a Brownfield Redevelopment Authority (RHBRA). The primary task of the RHBRA is to promote and facilitate the reuse and redevelopment of environmentally impaired, blighted, functionally obsolete, and historic resource properties. The RHBRA is the authority that will review and recommend whether to approve Brownfield incentives in the City.

Contact Information

The City of Rochester Hills Brownfield Redevelopment Coordinator will oversee the implementation of the Brownfield incentives. Applications for any incentives, and any questions or comments, should be directed to the RHBRA at the following address:

Brownfield Redevelopment Coordinator
City of Rochester Hills Brownfield Redevelopment Authority
c/o City of Rochester Hills Planning Department
1000 Rochester Hills Drive
Rochester Hills, MI 48309-3033
(248) 656-4660

Application Process

1. It is recommended that the applicant first contact the City Brownfield Redevelopment Coordinator to discuss the project.
2. Submit the Brownfield Program Application Form (copy attached to this Policy) to the Brownfield Redevelopment Coordinator.
3. Schedule an initial project meeting with the Brownfield Redevelopment Coordinator, who will, if you are applying for state tax capture, contact a member of the MEDC Community Assistance Team (CA Team) and/or the MDEQ. The objective of this meeting is to discuss the eligibility of the proposed project and begin the process of considering the applications.
4. A preliminary review of the project will be conducted and, if approved, an invitation to submit a Brownfield Plan will be provided.
5. Submit a Brownfield Plan or combined Brownfield Plan/381 Work Plan to the RHBRA for review and approval (review fee due).
6. Attend the RHBRA meeting(s) at which the Brownfield Plan will be considered.
7. A public notice for the public hearing will be placed by the RHBRA in the local paper.
8. Attend the public hearing.
9. If recommended for approval, attend the City Council meeting at which the Brownfield Plan will be considered.
10. If approved, the RHBRA will prepare a Reimbursement Agreement. Please note that projects may also require a Land Improvement Permit and associated proof of financial performance.
11. When eligible activities are completed, submit a reimbursement request to the RHBRA, including invoices and proof of payment, organized by the categories listed in the approved Brownfield Plan or 381 Work Plan (review fee due). Please contact the Brownfield Redevelopment Coordinator for details on the contents of the reimbursement request.

Fees

There is no cost for the initial meeting. There is no fee for submittal of the application.

However, due to the additional staff time required to review materials in the Plan, the City will require a review fee of \$2,500 be paid upon submittal of the Plan. This fee was determined by the average size and scope of projects that have been through the application process and may be subject to future adjustments.

The City will also charge a work plan review fee for a Combined Brownfield Plan/381 Work Plan or a separate 381 Work Plan. This fee will include technical, legal and administrative review and will be based on the complexity of the selected remedy and the extent of the Work Plan. The applicant will provide an escrow for the work plan review fee at the time of the Work Plan submittal.

When submitting the reimbursement request, the City requires a reimbursement review fee for legal, financial and administrative review, in order to verify expenses. This fee will be based on the complexity of the application. The applicant will provide an escrow for the reimbursement review fee at the time of submittal of the reimbursement request.

Opportunity for Public Involvement and Comment

The following are times during the incentive process where the public has an opportunity to comment on the potential project:

1. The RHBRA meetings that include review of the Brownfield Plan; and
2. The Public Hearing for consideration of the Brownfield Plan during City Council review.

Schedule

The approval process for a project that requests all Brownfield incentives (local and state) described in this Policy is typically four to six months, depending on the timing of applications and submittals, completeness of the information provided, and the complexity of the impacts and selected remedies. In general, the City will make every attempt to complete City review and approve all incentive requests within two to three months of receipt of an administratively complete application. Please note that review by other agencies is beyond the control of the City.

Materials must be submitted to the RHBRA fifteen working days before the RHBRA meeting. Minor changes to the submitted documents must be provided to the RHBRA no later than nine business days before the meeting, major changes require the entire Plan be resubmitted. Printed copies of all materials will be provided the RHBRA members five business days prior to the meeting. If changes are made after that period, then the RHBRA retains the right to table the plan to the next meeting.