

POLICIES AND PROCEDURES

MANISTEE COUNTY BROWNFIELD REDEVELOPMENT AUTHORITY

The Manistee County Brownfield Redevelopment Authority was formed and members appointed by the Manistee County Board of Commissioners under the auspices of Michigan's Brownfield Redevelopment Financing Act, Act 381, P.A. 1996 as amended.

This document intends to outline the policies and procedures of the Manistee County Brownfield Redevelopment Authority to implement the provisions of Act 381 and stimulate investment on and promote the revitalization, redevelopment and reuse of tax reverted and/or contaminated property and, in the City of Manistee and property owned or under the control of a land bank authority, blighted or functionally obsolete property.

Goals

The goals of the Manistee County Brownfield Redevelopment Authority integrate economic development and environmental protection by encouraging investment, including environmental management activities, on contaminated and other property. The Authority goals include:

- Economic Development
- Environmental Protection
- Community Improvement
- Spin off Development
- Employment
- Recreation and Open Space

MCBRA Operations

The Manistee County Brownfield Redevelopment Authority is governed by Act 381, By laws adopted by the MCBRA and approved by the Manistee County Board of Commissioners, and these policies and procedures.

Authority: The MCBRA is a nine member board, are appointed by the Manistee County Board of Commissioners. A list of the current MCBRA members is included in the Appendix.

Meetings: Regular meetings of the MCBRA are held the third Wednesday of every other month, beginning in February at 7:00 p.m. in the County Commission Chambers, 415 Third Street in Manistee. Special meetings may be called at any time at any location within the County by the Board chair or three or more members of the Authority.

Staff: The MCBRA is staffed through the Manistee County Planning and Development Department. The MCBRA Director is the County Planning and Development Director, assisted by the County Planning and Development Assistant.

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Brownfield Project Framework

The Manistee County Brownfield Redevelopment Authority applies the following overall approach to brownfield redevelopment projects under its purview:

- Developers are ultimately responsible for the overall redevelopment and environmental activities and costs.
- The Brownfield Authority will work to qualify eligible environmental and, if applicable, eligible redevelopment activities for reimbursement through tax increment financing (TIF) capture.
- Developers contract with environmental consultants and others to prepare all information necessary for the Brownfield Redevelopment Plan, Act 381 Work Plan, and MDEQ approval and Brownfield Authority approvals
- Developers and the Brownfield Authority codify these relationships through the execution of a developer agreement
- Invoices for all eligible expenses must be submitted and approved by the Authority to qualify for reimbursement.

There may be circumstances under which the Authority desires to take a more active role, including preparing brownfield plans and Act 381 work plans and conducting environmental and/or redevelopment eligible activities if determined to be in the public interest.

Project Initiation

Projects may be initiated at any time by an individual, business, or local unit of government that identifies an opportunity and desires to pursue brownfield redevelopment incentives.

Application: In order to determine whether the project is eligible under Act 381 and meets the goals and objectives of the MCBRA, a brief project application should be completed and submitted to the MCBRA Director at least 10 days prior to the MCBRA meeting.

The application includes general information about the project including location, description of proposed redevelopment, qualification for eligible property as a Part 201 Facility, justification of public purpose, development principals, total estimated investments, and total estimated eligible activity costs.

The application is included in the Appendix and available on-line at www.manisteecounty.net/brownfield

Application Review: The application will be reviewed by MCBRA staff to determine completeness and as a first screen for eligibility. If determined complete, the application will be forwarded to the MCBRA for consideration.

The MCBRA will review the application at its regular or special meeting and make a determination of public purpose and eligibility, and authorize the submittal of a brownfield plan. The determination of public purpose and eligibility does not necessarily guarantee approval of any subsequent brownfield plan or Act 381 work plan.

Brownfield Plan Review and Approval

Brownfield Plan: Once the Authority has so authorized, the developer may prepare and submit a brownfield plan which meets the requirements of Section 13 of Act 381. The plan must be submitted at least 10 days prior to the regular or special meeting of the Authority in both a paper and digital format.

Plan Review Fee: Prior to or concurrent with the submittal of the brownfield plan, a deposit of \$5,000 payable to the Manistee County Brownfield Redevelopment Authority will be made to the Authority Director. No review or consideration of the brownfield plan will be made until such payment is received. The payment will be held in escrow and draw upon as necessary throughout the review process. Any unspent balance will be returned to the developer. The payment will be considered eligible for reimbursement under provisions for either administrative and operating costs of the Authority or work plan review.

Brownfield Plan Review Process: Act 381 outlines the required process for consideration of a brownfield plan. The following is intended to summarize the process, but not supplant any requirements under Act 381.

1. *MCBRA Review:* The Authority will review the brownfield plan and make a determination of eligibility, public purpose, and reasonableness and necessity of

- eligible activity costs. If the Authority denies the brownfield plan, no further action is necessary. If the Authority approves the brownfield plan, a recommendation is forwarded to the County Board of Commissioners to hold a public hearing and approve the brownfield plan and to the local unit of government in which the project is located for concurrence with the brownfield plan.
2. *Local Government Concurrence:* Act 381 requires the concurrence of the brownfield plan by the local unit of government in which the project is located for the plan to take effect. While not stipulated by the Act, the preferred form of concurrence is a resolution adopted by the governing body of the local unit of government.
 3. *Public Hearing:* A public hearing date is set for review of the brownfield plan. Two notices of the public hearing must be published in a newspaper of general circulation, the first of which must be at least 20 days but no more than 40 days prior to the public hearing. A notice to taxing jurisdictions shall be mailed not less than 20 days prior to the public hearing, informing them of the fiscal and economic implications of the proposed brownfield plan and their right to be heard at the public hearing in regard to the adoption of the brownfield plan.
 4. *County Board Approval:* If acceptable, the County Board will adopt a resolution approving the brownfield plan.
 5. *Notification to Tax Collection Jurisdiction:* A notice of the approval of the brownfield plan, the establishment of the initial taxable year and value, and the requirement to capture and submit to the Authority the tax increment revenues from the eligible property should be sent to the treasurer of the local unit of government in which the eligible property is located, with copies to the clerk and chief elected official.

Act 381 Work Plan Review and Approval

Once the brownfield plan is approved by the Authority and the County Board, with concurrence from the local unit of government, the property qualifies as “eligible property” under Act 381.

In order to capture the School Operating Tax and the State Education Tax, an Act 381 work plan must be submitted and approved by the Authority, and submitted by the Authority to and approved by the Michigan Department of Environmental Quality (MDEQ) for environmental eligible activities and, in the case of projects located in the City of Manistee or on property owned or under the control of a land bank authority, the Michigan Economic Growth Authority (MEGA) for redevelopment activities, including lead and asbestos abatement, demolition, site preparation, and infrastructure.

All projects are required to prepare and submit an Act 381 work plan to maximize available tax increment revenues from all available sources and meet eligible activity reimbursement obligations in fewer years.

Local tax capture for any eligible activities that are denied by the State requires approval by the Authority.

Project Implementation

A development agreement must be executed between the Authority and the developer that outlines the terms, conditions, and obligations of each party in the implementation of the brownfield project. A sample development agreement is included in the Appendix and is available on-line at www.manisteecounty.net/brownfield

Work Plan: Within 30 days of the initiation of eligible activities, the developer or consultant must submit information to the Authority that includes estimates of quantities and cost for remediated soil or water based on characterizations provided by the Developer's environmental consultant, contract cost proposals from qualified and certified contractors for the environmental and non-environmental eligible activities to be conducted, a schedule of eligible activities and estimates of tasks, hours, and costs for project oversight, administration and reporting. Review of the costs and activities will be provided within two weeks of submittal.

Authorization to proceed does not necessarily indicate approval of expenses, only that such costs appear to be eligible, reasonable, and necessary.

Invoice Submittal and 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 eligible expenses within 60 days of the date of payment and at least 10 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.

An additional letter should be sent to the local government treasurer with notification of the approved amount of eligible activities.

Budget: A budget will be prepared each year and submitted for review and approval by the Authority and the County Board of Commissioners. The budget will be segregated by project, with separate revenue line items for state tax capture, local tax capture, and other

revenues, and expenditure categories for administrative and operating costs and eligible activities.

Revenues will be received by the County Treasurer and deposited in the appropriate fund. Authorization for payment will be provided by the Authority Director after approval of invoices by the Authority, for eligible activities up to the amount of tax increment revenues received in that tax year, minus administrative and operating expenses as outlined in the development agreement.

Reporting: Act 381 requires that an annual report be prepared and submitted to the County Board of Commissioner and the Michigan Tax Commission that includes:

- (a) The amount and source of tax increment revenues received.
- (b) The amount and purpose of expenditures of tax increment revenues.
- (c) The amount of principal and interest on all outstanding indebtedness.
- (d) The initial taxable value of all eligible property subject to the brownfield plan.
- (e) The captured taxable value realized by the authority.
- (f) Information concerning any transfer of ownership of or interest in each eligible property.
- (g) All additional information that the governing body or the state tax commission considers necessary.

Administrative Operations

The Manistee County Brownfield Redevelopment Authority will be staffed by the Manistee County Planning Director, who will serve as the MCBRA Director, and the Manistee County Planning Assistant.

Appointment of the MCBRA Director will be made by the County Administrator, with the consent of the MCBRA and the County Board of Commissioners.

The MCBRA will comply with all budget, accounting and operational procedures of Manistee County, including, but not limited to the County's procurement policy.

Appendix

MCBRA Members

Project Application

Sample Development Agreement