

Local Site Remediation Fund Policy
Grand Traverse County
Approved by BRA April 24, 2009

Introduction

Brownfields are properties that have been impacted from historical activities and where the expansion, redevelopment, or reuse may be complicated by these historical activities. Grand Traverse County (the County) is dedicated to building a partnership between it's citizen's, 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 County and are provided to assist developers with the extra-ordinary costs of redeveloping impacted properties. This policy is provided to ensure that projects that use County Brownfield incentives:

- Encourage redevelopment investment that will produce new jobs.
- Focus on projects that benefit the environment by reducing urban sprawl, for example by incentivizing affordable housing in urban, core areas.
- Focus on projects that benefit the environment by protecting the environment, especially the Grand Traverse Bay watershed, and public health.
- Encourage specific types of development appropriate to the neighborhood and surrounding community while recognizing market conditions.

Available Incentives

There are several types of funding incentives that can be used to assist Brownfield redevelopment. These include, among others, tax increment financing, tax credits, revolving loan funds, and grants. All incentives require one or more of the parcels in a project be classified as a "Brownfield".

This policy is provided to help potential developers identify Brownfields and apply for Brownfield incentives for redevelopment. This policy applies only to the Local Site Remediation Fund (LSRF) managed by the County. For information on other incentives, please contact the Grand Traverse County Brownfield Redevelopment Authority as listed below.

In order to help overcome the financial challenges of Brownfield redevelopment, Grand Traverse County has created the LSRF. The LSRF is a capital fund that is used to provide loans or subgrants for eligible activities on eligible Brownfield properties. The LSRF is funded through tax capture on Brownfields where an approved Brownfield Plan has been implemented. When these loans are repaid, the loan amount is returned into the fund and re-lent to other borrowers, providing an ongoing source of capital within the community. This source of gap financing can assist property owners by providing financing with flexible and favorable borrowing and repayment terms.

The County LSRF consists of two separate funds, each with different eligible activities. The first fund consists of local tax capture under approved Brownfield Plans for projects throughout the County. The second fund consists of state school tax capture under approved Brownfield Plans for projects throughout the County. When applying for funding, staff will make a recommendation and the Brownfield Redevelopment Authority will decide which fund is being used and which eligible activities will be funded.

Eligible projects will be required to submit the following documents to the County.

- LSRF Program Application
- Brownfield Plan (for State tax funded activities – see below)
- Work Plan
- Development Agreement
- Loan Commitment Letter
- Loan Documents

Objectives

Funds made available through the LSRF Program are intended to meet the following objectives:

- Assist cleanup and remediation activities of Brownfield sites throughout Grand Traverse County
- Encourage the creation and retention of permanent jobs
- Encourage the redevelopment of blighted structures throughout Grand Traverse County
- Encourage the leveraging of new private investment into the community

Management of the LSRF

Ms. Jean Derenzy, Grand Traverse County Brownfield Redevelopment Authority is the LSRF Manager and will oversee the implementation of the LSRF. Any questions, comment or concerns involving the LSRF can be directed to her at jderenzy@grandtraverse.org or 231.922.4513.

The Grand Traverse County Brownfield Redevelopment Authority (GTCBRA) will act as the LSRF Committee and provide review and approval of all LSRF funding applications. The LSRF Manager shall periodically review all financial statements and loan amortization schedules of LSRF loan recipients, review and approve documentation of business expenditures financed with LSRF proceeds, record LSRF security instruments, maintain the LSRF accounting records and report annually to the County Brownfield Redevelopment Authority regarding the use of the LSRF funds.

The BRA County attorney shall prepare all loan agreements, review all promissory notes and mortgage or lien instruments, and provide counsel to the LSRF Manager and GTCBRA.

Eligible Borrower

Applicants wishing to use LSRF funding should meet the following criteria:

- The eligible borrower must be a financially sound corporation or sole proprietor wishing to redevelop a Brownfield which would result in an increase in taxable value.
- The eligible borrower must have a conceptual redevelopment plan consistent with local zoning and area redevelopment, and must have a long-term maintenance plan for green space development.
- The eligible borrower must have control over the property (either ownership or purchase option), and if not owned must have a signed access agreement.
- The eligible borrower must have experience in the type of development proposed, or a team that possesses experience in redevelopment.

- The eligible borrower must not be the party responsible for the contamination, if any, on the property.
- The eligible borrower must not be delinquent in taxes, loan payments, or other indebtedness to the State of Michigan or any political subdivision.

Eligible Projects

A construction, redevelopment, renovation or reconstruction project can be eligible for LSRF incentives in the County as identified within Public Act 381.

1. Eligible property must be located within Grand Traverse County.
2. Property is designated as an eligible property for one or more of the following;
 - The property possess an actual release or substantial threat of release of a hazardous substance or petroleum contamination, or
 - Possess a release or substantial threat of release of a pollutant or contaminant that may present an imminent or substantial danger to public health or welfare, or
 - The property 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 unlimited 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 developer has, or will, submit a Baseline Environmental Assessment (BEA) to the MDEQ for determination within 45 days of purchase or occupancy, and the MDEQ will provide affirmation,
4. Development would not occur without the incentives, and
5. The development will ameliorate threats to public health or the environmental that were caused by site conditions through remediation, mitigation or control.

A project can not be eligible for LSRF incentives in the County if:

1. The developer or applicant is responsible for the hazardous substance contamination identified at the property, or
2. The developer did not conduct a Phase I ESA prior to purchase, or if the MDEQ did not affirm the BEA, or
3. The parcel on which development is proposed is not an eligible property as defined by Act 381.

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

- Strength of business plan
- Experience of the proposed development team
- Legal structure of the applicant
- Applicant financial status
- Applicant record of earnings and cash flow
- Applicant borrowing history
- Bank and credit references
- Outlook for applicant's industry
- Applicant Business Plan
- Economic viability of the project

- Applicant ability to manage the cleanup project
- If the investment will provide an incentive to other development in the area
- How long the property has been vacant
- Existence of abandoned, blighted or functionally obsolete buildings
- Extent of remediation, clean-up or control proposed
- Reduction in urban sprawl
- Inclusion of sustainable features
- Benefit to the environment, specifically the watershed
- Amount of green space
- Amount of property tax generated
- Ratio of public assistance to private investment
- Amount of investment on a square foot basis
- Job retention and creation
- Type of development relative to existing zoning, use and neighborhood development

To remain eligible for the approved incentives, site development must start within five years of the executed Development Agreement, and must be completed within three years of the estimated completion date.

Eligible Activities

Successful applicants will be permitted to submit a request for LSRF funding for the following eligible project costs:

- For funding from the local site remediation revolving fund:
 - Environmental Assessments and Investigations
 - Response Activities Work Plans
 - Response Activities
 - Remediation or Mitigation
 - Installation of Engineered Controls
 - Demolition
 - Lead Abatement
 - Asbestos Abatement
 - Site Preparation (not a response activity)
 - Infrastructure Improvements
 - Public infrastructure
 - Costs associated with removing, mitigating, or preventing the release or threat of release of a hazardous substance, pollutant or contaminant
 - Site monitoring costs, including sampling and analysis that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup
 - Other actions necessary to protect the health, safety, welfare, environment, or natural resources
- For funding from state tax capture fund (requires a Work Plan approved by either the MDEQ or the MEDC):
 - Environmental Assessments and Investigations
 - Remediation or Mitigation
 - Installation of Engineered Controls
 - Demolition
 - Lead Abatement

- Asbestos Abatement
- Site Preparation (not a response activity)
- Costs associated with removing, mitigating, or preventing the release or threat of release of a hazardous substance, pollutant or contaminant
- Site monitoring costs, including sampling and analysis that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup
- Other actions necessary to protect the health, safety, welfare, environment, or natural resources

Additional consideration may be included for the costs of environmental protection activities on properties adjacent to Grand Traverse Bay or the Boardman River, or for properties where groundwater contamination may adversely impact Grand Traverse Bay or the Boardman River in the near future.

The following costs are ineligible costs and cannot be funding using the LSRF:

- Costs incurred prior to execution of the Reimbursement Agreement, even if those costs were otherwise eligible;
- Development costs that are not remedial actions
- Monitoring, data collection or reports necessary to apply for, or comply with, environmental permits under federal, state or local laws unless a necessary component of the selected clean-up

Terms and Conditions

The repayment period and amount of the loan will be determined on a case-by-case basis, considering the requested funding, the amount of the investment and the anticipated tax capture.

An applicant may wish to apply for LSRF funding in the form of a grant. Projects will be awarded LSRF funding in the form of a grant as determined by the BRA on a case-by-case basis.

The BRA reserves the right to set flexible terms on a case-by-case basis, including, but not limited to, balloon payments, deferred or forgivable loans, and interest-only payments. However, interest-only repayment will be for a maximum period of 24 months.

The sale of the property requires prepayment of the outstanding principle.

Application Process

1. Submit the Brownfield Local Site Remediation Fund Application Form to the GTCBRA (copy attached to this Policy). The following information must be attached to the application form;
 - Project description including sources and uses of funds
 - Business financial information for the development company
 - Brief history of the company, including a description of similar projects completed with references and contact information
 - Resumes of owners and/or key management

- Schedule for redevelopment
 - Conceptual site plan
 - Legal description and associated maps of the project property
 - Cost estimates
 - Project budget
 - Purchase Agreement or Option to Purchase
 - Property appraisal
2. Schedule an initial project meeting with the LSRF Manager.
 3. Submit a Brownfield Plan and Workplan to the GTCBRA for review and approval. Public Act 381 outlines all the necessary information that should be contained in the Brownfield plan and workplan. However, the GTCBRA requires the following information be included.
 - A map indicating the eligible property and including parcel boundaries and parcel numbers
 - A map indicating the location and extent of impacts that exceed the unlimited residential closure criteria established by the MDEQ for soil, if applicable
 - A map indicating the location and extent of impacts that exceed the unlimited residential closure criteria established by the MDEQ for groundwater, if applicable
 - An itemized list for all eligible activities for which reimbursement is being requested, listing any contingency as a separate item
 - A table indicating the annual impact of tax capture on each taxing jurisdiction
 - Attach the most recent Soils and/or Groundwater Investigation Report or BEA
 - Attach the MDEQ letter of affirmation for the BEA
 - The maximum capture permissible under PA381 for the County's local revolving loan fund
 - The annual GTCBRA administrative fee determined at the initial meeting.
 - The Brownfield Plan duration will be three years beyond the capture period for the County's LSRF, or a maximum of 30 years, whichever is less.
 4. Attend the GTCBRA meeting at which the Brownfield Plan and/or workplan will be considered.
 5. A public notice for the public hearing will be placed by the GTCBRA in the local paper for the Brownfield Plan only.
 6. Attend the public hearing
 7. If recommended for approval, attend the Municipal meeting at which the Brownfield Plan will be considered
 8. If the Brownfield plan and/or workplan is approved, the GTCBRA will prepare a loan commitment letter and Development Agreement.
 9. Upon receipt of the signed loan commitment letter loan closing documents are prepared.
 10. Loan proceeds are disbursed after loan closing and upon completion of the eligible activities, as described in the Brownfield Plan and/or workplan, at the property.

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 County Brownfield Redevelopment Authority review of the application;
2. The Public Meeting for consideration of the Brownfield Plan, and
3. The municipal approval of the Brownfield Plan

Costs

The initial meeting with the LSRF Manager will be free of charge. A non-refundable review fee of \$500 will be paid upon submittal of the application.

The County will require an administrative payment be paid upon submittal of the Brownfield Plan, based on the complexity of the Plan. The GTCBRA Coordinator will provide an estimate of this payment following the initial meeting.

Schedule

The approval process for a project that requests all of LSRF funding described in this Policy is typically two to three months, depending on the timing of applications and submittals, completeness of the information provided, and the complexity of the impacts and selected remedies. All submittals must be received two weeks prior to the GTCBRA meeting (conducted on the last Wednesday for each month) to be considered during that month's meeting, and any changes to those materials must be submitted seven (7) days prior to the meeting to be considered.

Amendments and Modifications

Grand Traverse County may amend the provisions imposed by the policies and procedures contained within this LSRF Policy at any time. Please contact the LSRF Manager for the most current information on LSRF policies and procedures.