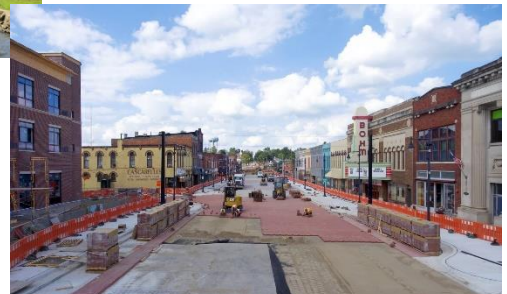


**ALBION  
ECONOMIC  
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**City of Albion  
Brownfield Redevelopment Authority**

**Program Policies & Procedures  
ABRA Approved - May 2, 2019**



**City of Albion Brownfield Redevelopment Authority  
Program Policies and Procedures**

**Section 1: Background**

Michigan's Brownfield Redevelopment Financing Act, 1996 Public Act 381 (Act 381), as amended, enables Brownfield Redevelopment in the State of Michigan and the establishment of brownfield authorities and zones. Public Act 381 provides brownfield redevelopment authorities with multiple tools to facilitate redevelopment, including tax increment financing to support eligible brownfield expenses incurred through reuse of a contaminated, blighted, historic, and/or functionally obsolete property.

On December 4, 2000, the Albion City Council adopted a resolution establishing the City of Albion Brownfield Redevelopment Authority (ABRA) in accordance with Act 381. Under the Bylaws established by the ABRA and approved by the Albion City Council as adopted on June 4, 2001, the ABRA shall consist of a nine-member Board.

**Section 2. Purpose**

The purpose of the ABRA exists to identify and treat environmentally distressed areas, including those which are functionally obsolete or blighted, in order to promote revitalization in the Albion brownfield redevelopment zone, which is congruent with the city limits of the City of Albion.

Albion Economic Development Corporation (AEDC) staff is available to assist with implementation of the policies and procedures described herein. AEDC staff will serve as a liaison between the ABRA and the various entities involved with the redevelopment of a brownfield site and guide a developer through the brownfield process. It is strongly encouraged to contact staff early in the project planning process to minimize delays in the approval process.

**Section 3: Policies**

**3.a. Eligible Activities**

The ABRA is authorized to allow the use of Tax Increment Financing (TIF) revenues to pay for or reimburse public or private costs of "eligible activities" as identified in Public Act 381. Eligible activities include, but are not limited to, the following:

- Phase I Environmental Site Assessments (ESAs)
- Phase II site investigations
- Baseline Environmental Assessments (BEAs)
- Due Care Plans (pre-development and post-development plans)
- Transportation and disposal of soils impacted above Part 201 criteria
- Dewatering

- Fill – clean backfill, placement, and compaction to fill voids from removal of impacted soils
- Engineering controls – vapor mitigation systems, infiltration prevention and diversion barriers
- Removal and closure of underground storage tanks or other containers (i.e. drums, hoists, aboveground storage tanks, hazardous materials)
- Disposal of solid waste
- Dust control related to due care activities
- Industrial cleaning
- Sheeting and shoring necessary for removal of materials exceeding Part 201 criteria
- Specialized foundations on land impacted above Part 201 criteria (subject to a cost-benefit analysis)
- Other interim response and remedial action undertaken to prevent, minimize, or mitigate injury to public health, safety, or welfare, or to the environment
- Asbestos, Lead and Mold Surveys
- Asbestos, Lead and Mold Abatement
- Building Demolition - interior, partial or whole building including Pre-Demolition Surveys
- Site Demolition including removal of utilities
- Fill – clean backfill, placement, compaction and/or rough grading to balance site where former structures were located)
- Public infrastructure improvements
- Private and public underground and/or multi-level parking structures
- Site preparation activities
- Private and public urban stormwater management systems
- Soft Costs related to environmental response actions, abatement, demolition, public infrastructure and site preparation activities
- Reasonable costs of preparing Brownfield Plan(s) and Act 381 Work Plan(s)
- Brownfield Authority administrative fees
- Interest on unreimbursed eligible activities
- Capture for the Local Brownfield Revolving Fund

**3.b. To qualify for brownfield incentives:**

1. The proposed project site meets the definition of an eligible property as defined in Public Act 381 of 1996, as amended, MCL 125.2652 Definitions.
2. The project is located within the jurisdictional boundaries of the City of Albion.
3. The proposed redevelopment for the eligible property is consistent with the master plan, zoning ordinance, and community/economic development goals of the City of Albion, as determined by the ABRA and City Council.
4. The existing character of the eligible property is such that redevelopment activities would be limited or not feasible without brownfield redevelopment assistance provided by Public Act 381 and/or other brownfield redevelopment programs. In addition, the project developer commits to

explore all other available private and public funding sources, as determined in consultation with the ABRA.

5. An analysis has been provided that demonstrates the required eligible activities can be satisfactorily completed within the available resources under this program, or if not, supplemental funding sources, such as private equity or financing, tax credits, or grants or loans, will be utilized to complement the financial resources available under PA 381 for proposed projects.

6. The developer has provided evidence of a firm commitment to the project and a demonstration of sufficient experience, financial resources (including submittal of pro forma financial statement), and development capabilities to successfully implement the proposed redevelopment project.

7. The proposed project site will have adequate access to the necessary public infrastructure and utilities needed to serve the proposed redevelopment project, as determined in consultation with the ABRA.

8. The ABRA reserves the right to consider other factors applicable to a specific project.

**3.c. To qualify for payment of interest on carrying costs of unreimbursed eligible activities:**

The reimbursement of interest on unreimbursed eligible activities will be determined on a case-by-case basis, but only where a clear financial gap is demonstrated, and where actual interest expenses and carrying costs will be incurred by the applicant. The following criteria must be met to qualify for interest reimbursement:

1. All costs for which interest is being requested must be eligible environmental or non-environmental activities.
2. The total amount of interest, and the interest rate, shall be determined in accordance with MEDC guidelines, and shall be approved by the ABRA.

Provided reimbursement of interest is generally approved, pursuant to the above, the reimbursement of interest on costs of eligible activities *using local-only taxes* may be allowed only if either of the following criteria is met:

1. The specific activity or activities are not supported for interest reimbursement by the Michigan Economic Development Corporation (MEDC) and Michigan Department of Environmental Quality (MDEQ) yet are supported by the ABRA as a cost resulting from an activity that, by its nature, will have specific or general environmental benefits.
2. A significant financial gap has been identified by the applicant, and supported by the ABRA, such that the requested interest would close the gap.

**3.d. To qualify for local-only reimbursement:**

The ABRA encourages costs of all eligible activities be reimbursed with both incremental local and state school operating taxes to the extent practicable; however, there are circumstances when

reimbursement only with local tax increments will be approved, on a case-by-case basis, under the following circumstances:

1. The activities are eligible under Act 381, the state declined to participate in the cost, but the ABRA supports the activity, which, by its nature, will have specific or general environmental benefits.
2. When the activity or activities were approved in a Brownfield Plan, and subsequently denied for state school operating tax participation, local-only tax increment financing may be considered, provided the approved Brownfield Plan does not prohibit or cap the use of local-only tax increment finances to reimburse the particular activity proposed for local-only reimbursement.
3. For any eligible activity completed prior to plan approval, but now included in a Brownfield Plan or Combined Brownfield Plan and Act 381 Work Plan submitted for approval, the ABRA must support the inclusion of the costs for local-only reimbursement, and the following conditions must be met:
  - a. The approved Plan states that certain or all eligible activities initiated or completed prior to plan approval, and subsequently denied for state school operating taxes participation, will be funded with local-only taxes.
  - b. The entity that incurred the costs is the same as applying for Brownfield Plan approval; and
  - c. Eligible activities were conducted, and expenses incurred prior to Brownfield Plan approval as allowed under Section 13b (7) and (8) of Act 381 or due to unanticipated circumstances or compressed project timeline.

### **3.e. Unanticipated Eligible Environmental Response Activities**

Pursuant to Act 381, local-only and state school operating tax increment revenues may be used to reimburse unanticipated eligible environmental response activities conducted after Brownfield Plan and/or Work Plan approvals provided the owner must have contacted the MDEQ and ABRA prior to taking action and subsequently included the eligible environmental costs in an amended Work Plan, and Brownfield Plan if necessary, and secured all requisite approvals.

### **3.f. Administrative Costs Capture**

1. Annual capture of administrative fees from brownfield projects from local taxes is permitted under Public Act 381 of 1996, as amended. Each Brownfield Plan may include capture of administrative fees. Administrative fees will be used to cover actual expenses related to operating the Brownfield Redevelopment program,
2. For reimbursement of reasonable and actual administrative expenses, the ABRA will transfer to its Administrative Fund five percent (5%) of annual total available TIF capture per project, during the entire capture period for the project. Actual administrative expenses will be captured with only local incremental taxes. These fees shall be paid before any annual reimbursements of costs are made to the applicant.

3. In accordance with ABRA policy, capture of administrative fees may exceed actual brownfield program expenses in any one year, provided any reserves are maintained in the Administrative Fund and utilized to reimburse for future years' expenses or used as otherwise allowed by Act 381. At no time will surplus funds exceed one year's allowable maximum capture under Act 381 based on the previous year's allowable capture. Any fund reserves that exceed one year's allowable capture will be returned to the appropriate taxing jurisdictions.

### **3.g. Local Brownfield Revolving Fund Capture**

The ABRA intends to capitalize its Local Brownfield Revolving Fund (LBRF) by capturing tax increment revenue, as allowable by Act 381. The ABRA will include provisions to capture five percent (5%) annual total available TIF capture per project (pursuant to total allowable per statute) for deposit into the LBRF in the approved Brownfield Plan.

LBRF funds will be used to further the purpose of the ABRA's Brownfield program, which is to facilitate the redevelopment of previously developed sites classified as a "facility", functionally obsolete or blighted as defined by Act 381. LBRF funds can only be used to fund eligible activities, as defined by Act 381. LBRF funds are eligible for use by all eligible properties located within the City of Albion to assist with the completion of eligible activities. The LBRF funds typically will be distributed as revolving loans, which allows the funds to continually revolve throughout the City of Albion. LBRF funds may be distributed as grants in response to exceptional circumstances solely at the discretion of the ABRA. The use of the funds will be determined on case-by-case basis.

### **Section 4: Procedures:**

The ABRA recognizes the importance of development project schedules and will expedite brownfield plan review and approval process to the greatest extent possible. The following are typical steps to access brownfield redevelopment incentives in the City of Albion. The steps may change if a combined Brownfield Plan/Work Plan is proposed.

**A. Concept Plan submittal and meeting – Review by committee of AEDC and City staff**

**B. Brownfield Plan application submittal**

**C. Brownfield Plan Development – Applicant and Staff**

**D. Brownfield Plan Approval by ABRA**

**E. Brownfield Plan – Public Hearing at City Council**

**F. Brownfield Plan Approval by City Council**

**G. Act 381 Work Plan(s) – Approval by Staff**

The applicant needs to execute a Reimbursement Agreement with the ABRA (See **Section 6: Reimbursement Agreement**).

If the TIF includes the capture of state school operating taxes for eligible activities, an Act 381 Work Plan (or Combined Brownfield Plan and Work Plan) must be completed in accordance with the requirements of Act 381 and guidance published by the MDEQ/MEDC and submitted to Staff. Staff will review the Work Plan and work with the developer and/or developer's representative (consultant) to finalize it. Staff will coordinate with the appropriate agency(s) for the submission and review of the Act 381 Work Plan.

If capture of state school operating taxes for reimbursement of eligible costs is contemplated, the reimbursement agreement must be completed and executed before submission of an Act 381 Work Plan or Combined Brownfield Plan and Work Plan for those activities.

Generally, conducting eligible activities can begin once the relevant elements of the approval process are complete. However, pursuant to Act 381, and in accordance with **Section 3: Policies**, conducting certain eligible activities prior to Brownfield Plan approval may still be reimbursed, with either or both local-only or state school operating Tax Incremental Revenues.

### **Section 5: Application Fee**

The application fee is due after Project Application approval and is based on total project investment:

\$0- \$1,000,000 = \$1,000  
Over \$1,000,000 = \$2,500

### **Section 6: Reimbursement Agreement**

Staff will provide the most current Reimbursement Agreement template. The applicant should fill in required information using the template, then work with ABRA staff to finalize. The Reimbursement Agreement must be approved by the ABRA and fully executed in accordance with City contract procedures.

### **Section 7: Reimbursement Process**

All eligible activities must be completed within the time specified in the Reimbursement Agreement.

Request for reimbursement for eligible activities shall be submitted in the form required by the ABRA. Staff will forward the submitted completed request, with a recommendation, to the ABRA for certification and approval.

The ABRA 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 less any applicable administrative and revolving fund capture noted herein.

Once TIF capture begins, and any or all eligible expenses have been approved, reimbursement may begin in accordance with the terms of the Reimbursement Agreement.

**CONTACT INFORMATION**

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