

**CITY OF PORTAGE  
BROWNFIELD REDEVELOPMENT AUTHORITY  
Board Meeting**

**AGENDA**

**October 25, 2024**

**CALL TO ORDER:**

8:00 a.m., Portage City Hall, Conference Room 1, 7900 South Westnedge Avenue, Portage MI, 49002

**INTRODUCTIONS**

**APPROVAL OF MINUTES:**

1. September 19, 2024 \*

**STAFF REPORT:** *Reserved for Education Session after New Business*

**OLD BUSINESS:**

1. none

**NEW BUSINESS:**

1. Approval of 2024 Brownfield Policy Update \*

**EDUCATION SESSION:** Legislative Changes to Brownfield Act in 2023, pt. 2

**STATEMENT OF CITIZENS:**

**ADJOURNMENT:**

**MATERIALS TRANSMITTED**

Star (\*) indicates printed material within the agenda packet.

# CITY OF PORTAGE BROWNFIELD REDEVELOPMENT AUTHORITY

Thursday, September 19, 2024

8:00 AM

Portage City Hall, Conference Room 1  
7900 S. Westnedge Ave, Portage MI 49002

The City of Portage Brownfield Redevelopment Authority meeting of September 19, 2024, was called to order by Chair Lewandowski at 8:05 am.

## **In Attendance**

Board: Vice Chair Eric Alburtus (no), Todd Campbell (yes), Bradley Galin (yes), Karen Gallagher (yes), John Herberg (yes), Michelle Karpinski (yes), Secretary/Treasurer William Lenehan (yes), Chair Keith Lewandowski (yes), Jeff Monroe (no).

Staff: Jonathon Hallberg, Deputy Director of Economic Development; Grant Taylor, Deputy Director of Revenue & Treasury; Andrew Falkenberg, Deputy City Assessor

Guests: Rick Freiman, Planning Commissioner

## **Introductions**

Introduction of Authority members, staff, and guests was conducted. The board also reviewed the agenda.

## **Approval of Minutes**

**Motion** by Campbell, seconded by Herberg, to approve the BRA Meeting Minutes of August 1, 2024, as submitted. Motion carried, 7-0.

## **Staff Report**

### ***1. Project DePatie***

Hallberg informed the board that the Project DePatie Act 381 Brownfield Plan was approved by the Michigan Strategic Fund in August.

### ***2. Education Session***

Hallberg shared a presentation on updates to Public Act 381 (the Brownfield Act) based on amendments established through the passage of Public Act 90 of 2023. He reviewed the definition of a brownfield, the basics of how Tax Increment Financing works, the statutory powers of the Portage Brownfield Redevelopment Authority, the various components of a Brownfield Plan, the types of eligible activities reimbursable under the Act and how this has changed to encompass a broad range of housing related development activities. Discussion ensued.

Chair Lewandowski asked if board members wanted to have another session in October and the board stated they would be in favor of doing so. Staff will schedule a meeting for late October.

**Old Business** - none

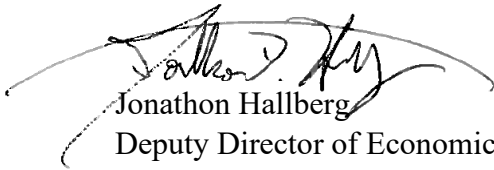
**New Business** - none

**Statements of Citizens:** none

**Adjournment:**

Motion by Gallagher, seconded by Campbell, to adjourn. Motion carried, 7-0. The meeting was adjourned at 9:05 am.

Respectfully submitted,



Jonathon Hallberg

Deputy Director of Economic Development

DRAFT

## CITY OF PORTAGE BROWNFIELD REDEVELOPMENT INCENTIVE POLICY (draft update 10/22/24)

### **PURPOSE**

To establish guidelines for the administration of the City of Portage Brownfield Redevelopment Authority (BRA) program and agreements, to include tax increment financing tools, brownfield loan and grant administration, and all other economic development opportunities available under Statute. The Program will provide support for qualified public or private development and redevelopment projects located in the city which would not occur without assistance through the BRA program. Projects are considered for recommendation based on the extent to which a project meets the goals of the City of Portage as described in various plans, primarily including:

- a. City of Portage Comprehensive Plan, including Subarea Plans.
- b. City of Portage Housing Needs Assessment and/or Market Analysis.
- c. City of Portage Attainable Housing Plan of 2022, as may be amended.

### **BACKGROUND**

In 1996, the State of Michigan Legislature approved Public Act 381, MCL 125.265 *et seq.* (the “Act”) to authorize municipalities to create Brownfield Redevelopment Authorities to promote the reuse and revitalization of properties. The Brownfield Redevelopment Program (the “Program”) provides for the utilization of certain tax increment revenues to pay for or reimburse the costs of Eligible Activities as defined in the Act. The City of Portage created the City of Portage Brownfield Redevelopment Authority (the “Authority”) in 2001. This policy guides the administration of the Program under the Act.

### **ADMINISTRATION & EVALUATION**

This policy contains the following sections:

1. Application
2. Review
3. Fees
4. Miscellaneous Provisions
5. Project Review and Evaluation Criteria
6. Investment Criteria
7. Special Considerations for Affordable Housing Developments
8. Compliance and Reporting
9. Local Brownfield Revolving Fund
10. Coordination with Kalamazoo County Brownfield Redevelopment Authority
11. Default
12. Waiver

#### **1. Application**

To be considered for inclusion in the Program, the applicant will request a pre-application meeting with the Community Development Department. Department staff will share the Program criteria and will review the applicant’s proposed project. Following the meeting, department staff will provide the applicant with a summary review of the project and a determination of whether the project would

qualify for participation in the Program. When the applicant has made the necessary preparations, a complete application shall be submitted to the Community Development Department in electronic format. All submittals may be in draft version up until such a time that legal review is requested, prior to which, the final version must be completed. Acceptable formats are MS Word™ and/or MS Excel™, or equivalent. Please avoid PDFs or scans that cannot be easily edited for communication and assistance purposes until final submittal. The application must include, at a minimum:

- a. Application Form - Among other required information based on the individual project, the applicant is to provide:
  - i. Identifying information for the applicant and any co-applicants, and the legal entity that will own the project, if different from the applying entity(ies). Name of the applicant's representatives, financial guarantors of the project, and the names of principals of those entities, addresses, email addresses and telephone numbers. Include the name and contact information for the person(s) with the authority to make land use decisions under the appropriate corporate structure of the applicant.
  - ii. New and Retained Job Details – classification, wages, full-time/part-time status, benefits, etc.
  - iii. Use Type and Area – square footage, planned use, new and/or rehabilitated spaces in the project.
  - iv. Residential Unit Detail (as applicable) – unit type, number of units, square footage, rent roll, income restrictions, percentage AMI of restriction, proposed method of certification and duration of affordability impact.
- b. Background information about the applicant, including development experience, if any, and all other relevant information the City may need to consider while reviewing the application. Describe the corporate or partnership structure. Include names and addresses of at least one reference who can confirm that the applicant has experience with mixed or multiple sources of funding, and development experience.
- c. Development Team: Name any of the following that will be involved with the Project (with addresses, email addresses and phone numbers): applicant Point of Contact, Architect and/or Engineer Representative(s), Construction Project Manager, General Contractor for Project, and Property Management Contact (if applicable).
- d. For speculative or residential projects, describe the marketing plan and the intended market. List the unit mixes by size and anticipated Area Median Income data for residential projects. Identify the anticipated absorption rate and how long full occupancy is expected to take.
- e. Documentation of Site Control: Name the property owner at the time of application submittal. If the applicant does not presently own the property, attach documentation to adequately demonstrate authorization to proceed with development planning, such as a valid option to purchase the property, a development agreement, a fully executed ground lease, or other legally binding document. Describe all existing financing, third-party options, and liens on the property. Indicate if there are any assessments presently under appeal and the status of those appeals. Indicate if the project will result in the subdivision of any present tax parcels and provide details.
- f. Conceptual Site Plan (include renderings if available).
- g. Photos of existing site conditions.
- h. State proposed time schedule for the Project including anticipated dates for the following:

- Closing of the loan or contributing financing availability.
  - First expenditure of funds regarding the project.
  - Anticipated date construction will begin. If the development involves multiple phases, identify the proposed start of each phase.
  - Anticipated completion date for each phase.
- i. Project Financials – A completed MEDC proforma template, information on finance structure and financing commitments. The proforma and collateral materials must demonstrate that the requested BRA assistance will address a clearly identified financial gap which prohibits a reasonable financial return to the applicant under the project’s proposed use, design, quality, and time frame. Identify all sources of financing and whether it has been secured, including an applicant’s equity, construction, and permanent financing, and any government assistance. It is recommended that the applicant calculate a pro-forma with, and without, Brownfield TIF assistance. The City may waive the MEDC proforma requirement in circumstances where a MSHDA pro-forma is required. Any financial data that is part of this application and proprietary in nature may remain confidential upon express written request from the applicant and permission from authorized City Staff, in accordance with the law Freedom of Information Act, 5 U.S.C. § 552.
- j. Provide an operating proforma, for example, a sources-and-uses-of-funds document that will include all anticipated major revenues and expenses for the full term of the requested BRA assistance.
- k. Documentation of property eligibility under the Act. For sites that are a “facility” of “site” as defined in Part 201 or Part 213 of the Natural Resources and Environmental Protection Act (1994 PA 451) submit an environmental site assessment, due care plan, or other appropriate eligibility documentation.
- l. Application Cost Reimbursement Agreement.
- m. Describe the following as to any applicant, guarantor, or other person involved with this project:
- a. Any pending civil litigation involving this property or other business holdings in the City of Portage.
  - b. Any pending criminal proceeding involving this property or other business holdings.
  - c. Any conviction, or other pending criminal matter, that is for any felony offense or any theft-related misdemeanor, involving this property or other business holdings.
  - d. Any potential conflicts of interest the applicant or any guarantor may have with any City Personnel or City Council members.
- n. Applicant, co-applicant(s) and/ or applicant’s representatives must execute the following statement along with a dated signature and provide it as part of the application.

“This application is made to induce the City of Portage to grant financial incentives to the applicant. Applicant declares that all statements contained herein are true and correct. All information materially significant to the City of Portage in its consideration of the application is included. Applicant and co-applicant(s) declare that each is in good standing in the State of Michigan and is properly authorized to do business in the State of Michigan. Each person representing an applicant or co-applicant, by signing below, is at least 18 years old, a citizen of the United States, has personal knowledge and familiarity with the Property, and is fully authorized and empowered to execute this Application and all other associated documents on behalf of the applicant or co-applicant represented. Applicant acknowledges that it has

reviewed policies of the City of Portage Brownfield Redevelopment Authority Incentive Program for which it is applying and agrees to comply with those policies. Applicant specifically will pay all reasonable costs, fees, and expenses incurred by City of Portage whether or not the incentive is granted, or the project is completed. I certify that I am authorized to commit the applicant to the requirements of this signed statement.”

- o. Evidence of Good-Faith Community Engagement; applicants are advised of the City of Portage Public Participation Plan, which requires developer outreach in certain instances. Applicants will consult with the Chief Development Officer or proxy on whether developer outreach to the neighboring property owners is required or recommended.

## **2. Review**

Upon receipt of a complete application and fee, staff will provide the relevant details of a project to other City departments to confirm that the applicant is eligible to do business with the City and the project is permissible as proposed. The staff review process timeline is a minimum of three (3) weeks. The results of this review must confirm the following (all mention of “applicant” will also apply to any co-applicants):

- a. That the project is compatible with the City’s zoning ordinance or plans to comply.
- b. That the applicant is not delinquent on any financial obligation to the City.
- c. The applicant has no pending or current litigation against the city (including appeals to the Michigan Tax Tribunal or Board of Review).
- d. That the applicant does not have outstanding written orders or code compliance violations.
- e. That the applicant, including its affiliated entities, has not defaulted on the terms of previously executed agreements with the City or the BRA.
- f. That the applicant is in good standing in the State of Michigan and is properly authorized to do business in the State of Michigan.
- g. That the applicant is in compliance with applicable environmental requirements and whether or not the company is under enforcement action by the Michigan Department of EGLE or US EPA.
- h. That the proposed tax capture does not impair the financial soundness of any of the affected taxing jurisdictions.
- i. That the development will be compatible with current municipal services (roads, utilities, public safety, etc.)
- j. That the applicant will actively pursue State of Michigan funding through an Act 381 Work Plan and will collaborate with the Community Development Department throughout the application process.
- k. That the application, financial structure, financing commitments, and collateral materials justify the project need and financial viability. The project must demonstrate that the requested BRA assistance will address a clearly identified financial gap which prohibits a reasonable financial return to the applicant under the project’s proposed use, design, quality, and time frame. Additional financial information may be requested of the applicant if submittal is vague or incomplete.

### 3. Fees

- a. Application and processing fees will be levied for applications in accordance with an annually approved fee schedule posted on the City of Portage website.
- b. Legal fees related to a brownfield application submittal to the City are covered by the application fee and administrative fee.
- c. For additional legal support provided by the City or Authority related to a brownfield application submission to the State of Michigan, the applicant will be billed directly by the City's legal counsel. All invoices must be paid before a letter of support or testimony is provided to the Michigan Strategic Fund and/or the Department of Environment, Great Lakes, and Energy (EGLE).
- d. City legal counsel shall provide copies of all invoices to the Administration prior to billing the applicant directly. Billing shall occur in monthly periods. Any additional legal fees incurred by the applicant related to a State of Michigan brownfield application will be capped at \$15,000 subject to discussion and agreement with the Administration.
- e. Modifications to the approved Brownfield Plan or Development and/or a Reimbursement Agreement may be considered and are subject to the standard preparation fees, reviews, and public hearing requirements, resulting in a City Council adopted resolution certifying the Amended Plan.

### 4. Miscellaneous Provisions

- a. If a project is in another tax increment financing district (i.e., Downtown Development Authority, Corridor Improvement Authority, etc.), staff may seek a recommendation from the district's governing board on the application. If the project warrants it, an Interlocal Governmental Agreement may be approved to accommodate the Program.
- b. The City intends for the Program to function in partnership with the State of Michigan Brownfield Programs operated through the Department of EGLE, and the MSF, and/or MSHDA, as applicable. As such, the BRA will favor projects that intend to seek full approval by the State, through the Michigan Department of Environment, Great Lakes, and Energy (EGLE), and the Michigan Strategic Fund (MSF), and/or the Michigan State Housing & Development Authority (MSHDA), For projects that will not incorporate State support for valid reasons such as such as for market-rate owner-occupied housing developments that would derive negligible or no benefit from an Act 381 Work Plan, the project's inability to qualify with department guidelines or difficulties with approval timelines and work plan costs, the BRA Board must explicitly recommend approval to the Council that a project to be reimbursed only from local tax increment revenues.
- c. The Authority reserves the right to conduct additional environmental investigation at project site, which shall be considered an eligible expense and shall be reimbursed through TIF capture along with other administrative costs.
- d. The local tax capture is limited to a maximum of 10 years or when 100% reimbursement of eligible expenses is achieved, whichever period is shorter. An applicant that meets multiple investment criteria may qualify for additional years of capture adding up to no more than 25 years of local tax total capture. All projects will be considered on a case-by-case basis and the timeline shall be detailed in the Development and/or Reimbursement Agreement. In all cases, an extra five years will be allocated for TIF capture by the Local Brownfield Revolving Fund (LBRF) unless the BRA agrees to forgo the accommodation to the LBRF.
- e. Reimbursable Brownfield Plan Amendment and Work Plan preparation fees will be limited to a maximum of \$30,000, or to \$15,000 in the event the applicant is permitted to apply for a

local-only Brownfield program. Reimbursable Brownfield Plan Amendment and Work Plan preparation fees that involve review by MSHDA will be limited to a maximum of \$50,000. Preparation fees which are structured based on a client’s reimbursement amount awarded through a Brownfield Plan and/or Work Plan will not be eligible for reimbursement.

- f. For a property not yet purchased, upon acquisition of the property included in a Brownfield Plan Amendment, and before becoming eligible to receive reimbursement pursuant to an approved agreement, the applicant shall have filed a completed [Michigan Department of Treasury Form 2766 – Property Transfer Affidavit L-4260](#) and a valid copy of recorded and notarized deed for subject property/properties with the City Assessor related to its acquisition of the property. The Property Transfer Affidavit shall be considered incomplete if the purchase price of the real estate is not entered on the form.

**5. Project Review and Evaluation Criteria**

- a. The Authority is authorized to utilize Tax Increment Financing of “eligible activities”, as defined in Section 2 of the Act, by utilizing incremental taxes generated by and captured from the redevelopment of eligible property to reimburse developers and property owners for those costs.
- b. For projects meeting the minimum qualification criteria contained in the Act, the Authority retains an annual TIF capture of up to 10% of the annual increment during the entire capture period of the project, subject to the volume cap limitations of the Act, to reimburse administrative costs as they are incurred, to cover actual expenses related to operating the Brownfield Redevelopment program, to reimburse Department-specific activities conducted by/on behalf of the authority related directly to the work conducted on prospective eligible properties prior to approval of the brownfield plan, and to operate the BRA with the remaining fee balance. Actual administrative expenses will be reimbursed with only local incremental taxes. The Authority will, where applicable, provide to the State Treasury an amount required by PA 381 of 1996 to fund the State Brownfield Redevelopment Fund. Remaining annual tax increment revenues from a project will be utilized to reimburse the developer for eligible costs incurred and documented.
- c. Projects seeking reimbursement for Housing Development Activities will be evaluated, in part, based upon efforts to secure funding assistance beyond tax abatement incentives and/or beyond reimbursement of eligible expenses through tax increment financing. Please review Section 7 of this document for special considerations regarding affordable housing developments.
- d. For projects that meet the above criteria and that assist in achieving certain City Investment Criteria enumerated in Section 6 below, an additional financial incentive shall be available by the City of Portage Brownfield Redevelopment Authority, subject to all terms of this policy and based on the following schedule:

<b>PROJECT EVALUATION</b>	<b>LEVEL OF INCENTIVE</b>
<i>Base Level of Support (Meets project eligibility criteria, but does not meet any City Investment Criteria)</i>	<i>Qualifies for up to ten years of local tax capture to recover eligible expenses.</i>
<i>Meets Two City Investment Criteria</i>	<i>Eligible for reimbursement up to 15 years of local tax capture.</i>
<i>Meets Three City Investment Criteria</i>	<i>Qualifies for payment of interest on carrying costs up to 3.5%*, eligible for</i>

	<i>reimbursement up to 20 years of local tax capture;</i>
<i>Meets Four or More Investment Criteria</i>	<i>Qualifies for payment of interest on carrying costs up to 3.5%*, eligible for reimbursement up to 25 years of local tax capture;</i>

\*The reimbursement of interest on unreimbursed environmental and non-environmental activities will be allowed where actual interest expenses and carrying costs are incurred by the applicant. All costs for which interest is being requested must be eligible environmental or non-environmental activities. Interest expenses may be considered beyond the prescribed 3.5% if then-current inflation rates exceed 5% and the proposal meets four or more investment criteria. No interest reimbursement will be permitted when proposed development includes layering of incentives with abatements and other tools that dilute the potency of tax captures. Interest reimbursement will not be allowed in instances where reimbursement of interest expenses is prohibited under the Act.

- e. Irrespective of the development meeting necessary eligibility criteria and regardless of the number of Investment Criteria met, applications and collateral materials must demonstrate that the requested BRA assistance will address a clearly identified financial gap which prohibits a reasonable financial return to the applicant under the project’s proposed use, design, quality, and time frame. For purposes of this review, the City will base its definition of reasonable financial return for smaller projects or the MEDC standard of a developer internal rate of return (IRR) of 12% based on a 20-year investment horizon for projects of more than \$5,000,000. The following additional considerations are included when making this determination:
  - a. Project maintains an average of 1.2/1.0 debt service coverage ratio (DSCR) over a period of 20 years for all standard amortizing debt.
  - b. Private owner equity investment of 10% or greater.
  - c. Developer and other related-party fees of 4% or less.
  - d. Maximization of available debt resources, and other state and federal assistance.
  - e. Minimum debt financing term of 48 months.
  - f. Minimum amortization period of 240 months.
  - g. Utilization of a federally-insured lender, or other lender deemed acceptable to the City of Portage.
  - h. Contractor expenses for builder overhead/profit/general requirements limited to approximately 14% of hard costs.

The total length of reimbursement shall not be extended beyond the term needed for the reimbursement amount to ensure the project demonstrates a reasonable financial return, regardless of the number of investment criteria met.

**6. Investment Criteria**

The City Investment Criteria described below have been identified in various plans developed with input from the Portage community to incentivize outcomes desired by the City of Portage and the community. These criteria shall be applied at the sole discretion of City Administration, the Authority, and City Council and are not intended to be compulsory for the applicant. Unless otherwise indicated, each investment criterion may be qualified for only once.

- a. Sustainable Development: Achieve LEED Gold Certification or higher, Net-Zero Energy Certification, locally-tested HERS rating certification of 45 or lower, WELL, PHIUS, Living Building Challenge or similar alternatives for all buildings. Similar alternatives may include signed letter of certification by an Environmental Professional as qualified under ASTM E1527, a Certified Professional geologist (CPG), or an Environmental Professional Engineer (PE), including the environmental professional's license number and establishing that environmentally sustainable building practices are employed that would meet LEED Gold, Net-Zero or other standards currently recognized.
- b. Housing Development Activities: Project includes "Housing Development Activities", as defined in Section 2(x) of the Act, and provides income qualified housing. Details are provided in Section 7 of this Policy. If the development is a for-rent dwelling unit, rent control is provided as a component of the project. For mixed-use projects, a majority of the gross building square footage must be dedicated to housing to qualify for this investment criterion.
- c. Diversity of Housing Type: Provides a housing type (single-family attached, single-family detached, duplex, or multi-family) that is less than 20% of the existing housing type in a census block group, according to the most recent decennial census, or if the census data is more than five years old, according to the most recent American Community Survey data.
- d. Accessibility / Visitability: Provides a housing development where at least 10% of the dwelling units meet or exceed ADA Accessibility Standards. Alternately, at least 75% of the dwelling units meet or exceed following Visitability standards: a) no-step entry; b) barrier free parking, with ramps if needed; c) barrier free entry door; d) barrier free half-bath on first floor; e) electrical switches at reachable heights; f) accessible route through first floor living space. Applicants who meet both requirements will have met two investment criteria. For mixed-use projects, a majority of the gross building square footage must be dedicated to housing to qualify for this investment criterion.
- e. Activation in Designated Sub-Areas of Portage: (address one of the following.)
  - i. Provides major activation or delivery of plan goals/objectives on parcel(s) located in designated Master Plan subareas, including City Centre Subarea and Lake Center Subarea, and Crossroads Subarea properties.
  - ii. Provides activation at parcel(s) identified by or targeted by the City of Portage for environmental clean-up or redevelopment (e.g. buildings vacant for 10 or more years, etc.). These locations can be found on the [City of Portage GIS](#) Redevelopment Ready sublayer under the Economic Development layer grouping Or as designated in the *Portage Forward Together 2045 Master Plan*.
- f. Promote Utilization of Multimodal Transportation: (address one of the following.)
  - i. For projects located within ¼ mile of a bus transit station, or within 500 feet of a permanent covered bus shelter, offer transit passes to each residential unit and employee for of the first three years of occupancy **and** project provides land (by conveyance or easement) for, and/or finances improvements for, a transit station, electronic charging stations, bike share station, a covered/sheltered transit stop, pedestrian infrastructure where not already present or required by the site plan regulations.

- ii. Or alternatively, the developer may contribute the greater of \$25,000 or 1.0% of eligible expenses under the Brownfield, exclusive of City Administrative or LBRF costs, to be dedicated toward local multimodal transportation improvements and infrastructure.
- g. Job Creation: Provides the greater of 20 FTE non-construction jobs or a 25% increase in the number of FTE non-construction jobs for non-residential developments over and above existing in-state operations (up to 100 FTE jobs) over the next three years, with annual wage/salary of the new jobs averaging more than twice the current State of Michigan minimum wage at the time of hiring.
- h. Mixed-Use: Development includes a mix of uses, including housing, within the same structures with an emphasis on maximizing land utilization.
- i. Public Space Improvements: Adds publicly accessible open space, public plaza, community garden, pocket park or public art. Public space improvements that reference the needs of the community as articulated in an approved City of Portage plan are encouraged. Creation of walking paths and/or trails that are not part of the site plan requirement and that link up to an outside trail network qualify. Extension of sidewalks in the right of way which are outside of the required installation area and which eliminate gaps in the sidewalk network also qualify. Infrastructure improvements required and/or requested by the City to improve the overall infrastructure system, but not needed for the development, also qualify.
- j. Site Amenities: Residential or mixed-use development includes at least two of the following amenities and features; secured mail/package room, furnished and landscaped terrace with outdoor kitchen or grill stations, multi-use seating area/gazebo/pavilion, dedicated pet park, secured bicycle storage (mixed-use projects), clubhouse with social areas (for example: kitchen, remote work area, “Zoom Rooms”), walking/biking path, fitness center, sports courts, or swimming pool.
- k. Childcare Facilities: Includes the development of a State of Michigan licensed child daycare center as outlined in MCL 722.111(f)(iv).
- l. Total Investment: Total investment equates to a minimum taxable value increase of \$10 million or more upon completion. If the minimum taxable value increases to \$15 million, the project will qualify for one extra investment criteria point.

## **7. Special Considerations for Affordable Housing Developments**

The passage of Public Act 90 of 2023 established new opportunities to support housing development using the Brownfield program by broadening definitions of both eligible property and eligible activity specific to housing projects. In addition to all existing criteria that qualify property as eligible property under the Act, Housing Property is also eligible property.

Housing Property is defined as either of the following:

- a. A property on which one or more units of residential housing are proposed to be constructed, rehabilitated, or otherwise designed to be used as a dwelling, or
- b. One or more units of residential housing proposed to be constructed or rehabilitated and located in a mixed-use project.

For projects where property qualifies as a Housing Property, the Brownfield Plan Amendment may include, in addition to all other eligible activity costs, the costs of Housing Development Activities, which are defined as:

- a. Reimbursement provided to owners of rental housing units for qualified rehabilitation.
- b. Costs for infrastructure available for public use and safety improvements necessary for housing projects.
- c. Costs of demolition and renovation of existing buildings and site preparation, to the extent necessary to accommodate an income qualified purchaser household or income qualified renting household. These costs shall be prorated based on the percentage of units leased or sold to income qualified households.
- d. Temporary household relocation costs for an income qualified household for a period not to exceed one year.
- e. Acquisition costs for blighted or obsolete rental units, to the extent the acquisition would promote rehabilitation or adaptive reuse of the blighted or obsolete rental unit to accommodate an income qualified renting household. These costs shall be prorated based on the percentage of units leased to income qualified households.
- f. Reimbursement provided to a developer to fill a financing gap associated with the development of housing units priced for income qualified households and to assist with costs related to infrastructure improvements and site preparation that are not a response activity and that are necessary for new housing development for income qualified households on eligible property.

Criteria for Projects that Include Income-Qualified Apartments:

- a. To apply for eligible Housing Development Activities, projects must include rental units that will be leased at rates that are both (a) below market-rate if the current market rate is higher than the rental rate for households earning 120% of Area Median Income (AMI) and (b) at, or below, the rental rate for households earning 120% Area Median Income (AMI).
- b. Units must be leased to households with income at, or below, the applicable AMI level based on household size, not to exceed 120% AMI.
- c. At least 20% of all unit types (i.e. studios, one-bedroom units, etc.) shall be rented below market rate, with greater percentages encouraged based on underwriting. These units must serve an average household AMI of 100% or less for the duration of the capture period, based on units leased. For example, a 100-unit development would qualify if it leased to 15 households that are 90% of AMI and 10 households that are 110% of AMI. Projects serving an average household AMI of 80% for the duration of the capture period shall receive an extra investment criteria point.
- d. Rents for income-qualified units will be provided annually by the BRA and will be based on the “rent by bedroom”, less applicable utility allowance(s), all as provided by MSHDA.
- e. Rent and income controls must be in place for a minimum of 10 years, or the period of reimbursement, whichever is greater.
- f. Applicants should consider an appropriate balance between income targets, number of units and duration of affordability based on underwriting.
- g. A calculation of the potential rent loss is required, representing the difference between market rent and the maximum rent allowed for an income qualified unit based on AMI targets. MSHDA provides guidance on this calculation.

Market rate investment in infrastructure-only projects must comprise a minimum \$500,000 investment. Requests for BRA support of a potential development loss subsidy which would be needed in order to make a home affordable to an income qualified purchaser household shall be considered on a case-by-case basis, and shall be administered based upon the available Tax

Increment Revenue (TIR) generated by the development itself and on a reimbursement basis. Only subsidies for the lesser of 25% of the construction cost per unit or \$100,000 shall be considered. Affordability and primary residence periods of ownership shall not be less than 15 years.

While applications for affordable housing developments will include all materials currently required by the policy, additional materials will be required and templates will be provided as they are developed and finalized, based upon material from the Michigan State Housing Development Authority (MSHDA) as it is released. BRA staff will share a calculation methodology to determine potential rent loss and potential development loss based upon MSHDA materials as periodically updated.

## **8. Compliance and Reporting**

- a. Compliance requirements will be detailed in a project's Development/Reimbursement Agreement.
- b. Annual Reporting will be due by/before June 30 for the previous year and shall be consistent with the MEDC, MSHDA, and Public Act 381 of 1996 reporting requirements as applicable.
- c. A project completion survey must be submitted within 120 days of the issuance of a Certificate of Occupancy for the project in a format acceptable to the BRA for reimbursement of eligible activity costs.

The project must be built, operated, and maintained in compliance with all applicable City ordinances, State code, including certification of compliance with current Michigan Building, and Residential Codes.

## **9. Local Brownfield Revolving Fund**

PA 381 of 1996 authorizes the creation of a Local Brownfield Revolving Fund (LBRF) that can be used for eligible activities such as: site investigation (e.g., environmental studies such as Baseline Environmental Assessments and Due Care Plans); preparation of a Brownfield Redevelopment Plan; environmental cleanup; demolition; site clearing, and other activities. The LBRF can fund future brownfield redevelopment projects that require additional assistance with up-front due diligence and planning costs required to prepare a Brownfield Redevelopment Plan, and/or the cost of eligible redevelopment activities where a project may not otherwise be economically feasible.

Funding for a LBRF typically consists of funds from tax increment revenue from specified projects, as appropriate, in excess of the amount required to reimburse the developer, the local Brownfield Redevelopment Authority for administrative expenses, and the State Brownfield Redevelopment program. In the case of the Portage Brownfield Redevelopment Authority, the LBRF will initially be funded from tax increment revenue derived from approved Brownfield Redevelopment Plans. The LBRF will capture excess tax increment revenue during the time of capture for the purpose of paying the costs permitted under Section 13(4) of the Act, or for a period not to exceed five years (which must fall within the maximum 30-year capture period), or both. The LBRF will also capture any remaining funds from the annual BRA Administrative Fee, if applicable. In all cases, the functions of the LBRF will be undertaken in accordance with, and limited only by, PA 381.

### **10. Coordination with Kalamazoo County Brownfield Redevelopment Authority**

The Kalamazoo County Brownfield Redevelopment Authority (KCBRA) was created in 2002 and provides incentives for brownfield redevelopment. The Authority and City Administration will coordinate with Kalamazoo County as appropriate.

### **11. Default**

Default terms and/or conditions will be detailed in the Development and/or Reimbursement Agreement.

### **12. Waiver**

The City Council may waive this policy, or any portion of it, when it is determined to be in the best interest of the City. This policy does not apply to developments sponsored by the City of Portage and/or on City of Portage property. All aspects of the policy are subject to the restrictions and requirements Public Act 381 of 1996 as amended.

Inquiries concerning this policy can be directed to the Department of Community Development (269-329-4477), or the Office of the City Clerk (269-329-4511) in Portage City Hall, 7900 South Westnedge Avenue, Portage, Michigan 49002.

**DATE OF ADOPTION BY CITY COUNCIL: TBD**