

Kalamazoo County Brownfield Redevelopment Authority (KCBRA) Local Brownfield Revolving Fund (LBRF) Policies and Procedures

Introduction:

A Local Brownfield Revolving Fund (LBRF), under the management of the KCBRA, has been established in accordance with Public Act 381 of 1996, as amended (Act 381). The LBRF funds accumulate from adopted KCBRA Brownfield Plans and represent excess tax increment revenue (TIR) capture after all eligible Brownfield expenses have been reimbursed. Up to 5 full years of excess TIR capture from each Plan can be deposited into the LBRF. The purpose of the LBRF is to provide gap funding to conduct brownfield eligible activities on eligible property (property included in a Brownfield Plan) within Kalamazoo County.

Objectives of the LBRF:

The KCBRA desires to further their program supporting the redevelopment of brownfield sites throughout Kalamazoo County. Through the LBRF, the KCBRA will generally support projects that include Local Unit of Government (LUG) support, leverage re-investment, create jobs, support the use of existing infrastructure, resolve environmental and brownfield site conditions and benefits the community. Since this is a revolving fund, the LBRF will be managed in a manner that LBRF funded projects will continue to generate revenue adequate to sustain the LBRF program long term.

Available Incentives:

It is the KCBRA's goal to have funds available for project support on a continual basis. However, since this is a revolving fund that depends on the capture of tax increment revenue (TIR) from adopted Brownfield Plans and loan repayment, the availability of funding may fluctuate depending on market conditions, funding requests and available fund balances. The primary incentive offered through the KCBRA's LBRF will be loans. Loan terms and conditions will be outlined in a Loan Repayment Agreement (LRA). The KCBRA may consider granting LBRF funds to a project on a case-by-case basis where the property is included in a Brownfield Plan, there is a demonstrated financial need and there is a means of partial or complete reimbursement to the LBRF, entities that may qualify for LBRF grants are non-profit organizations, and state sanctioned economic development organizations. The delegations of these funds are up to the discretion of the Authority and decided on a case-by-case basis. Only one loan and/or grant will be allowed per project. The KCBRA will annually review and determine the funds available for eligible projects. The minimum amount considered for a loan is \$25,000. As security for the repayment of any LBRF loan, the TIF capture from the project must be pledged to the KCBRA for loan repayment (additional security may be needed) and is otherwise detailed in a required Loan Repayment Agreement.

LBRF Eligible Locations:

According to Act 381, the LBRF may be used only to pay the costs of **eligible activities on eligible property** that is located within **the municipality** (MCL 125.2658 (4)). The definition of "municipality" (as defined by Act 381), in the case of the KCBRA's LBRF, is Kalamazoo County. Therefore, LBRF funds may be used on any eligible property located within Kalamazoo County. Eligible property, as defined by Act 381, is property included in a Brownfield Plan and is primarily one or more of the following:

- a “facility” as defined by Part 201 of P.A. 451 of 1994, as amended (contaminated);
- Blighted (as determined by the local unit of government);
- Functionally obsolete (as determined by the local assessor);
- Historic resource;
- Other listed eligible property as defined by Act 381.

Eligible projects may be prioritized based on the following considerations:

- Significant brownfield conditions, i.e. environmental, blight, public health.
- KCBRA Site Prioritization List.
- Marginalized communities, i.e. lower income, economically and socially underserved populations.
- The backing of the local unit of government.
- Attraction of new businesses to the county
- Increasing number of new jobs in the county

Eligible Activities/Eligible Uses of LBRF:

Funds from the LBRF may be used to provide revolving loans and grants to pay for eligible activities as defined by Act 381, as approved by the KCBRA, EGLE, MSHDA, and MSF, as applicable. Approval of eligible activities will be subject to an adopted Brownfield Plan and approved Act 381 Work Plan, as appropriate. The primary eligible activities may include:

- Department (EGLE) Specific Activities:
 - Phase I and II Environmental Site Assessments, Baseline Environmental Assessments, Due Care Activities, Response Activities, removal and closure of Underground Storage Tanks, disposal of solid waste, dust control, removal and disposal of lake or river sediments, industrial cleaning, certain sheeting or shoring, lead, mold or asbestos
- Brownfield Plan and Work Plan implementation
- Demolition that is not a response activity
- Lead, asbestos or mold abatement.

In Qualified Local Government Units (QLGU) or “Core Communities” (City of Kalamazoo and City of Portage), Land Banks, and former mills, the eligible activities listed above and:

- Infrastructure improvements
- Site preparation activities
- Quieting the title, conveying or selling property under control of a Local Unit of Government (LUG), Land Bank, or BRA or acquisition of property if for economic development purposes.

Eligible Borrower/Applicant:

The KCBRA will evaluate project proposals through an application process. The eligible borrower or applicant must demonstrate an ability to either independently or through a partnership generate tax increment revenue that can be captured through a Brownfield Plan to partially or completely repay the loan and/or grant. The KCBRA may choose to complete projects or eligible activities directly utilizing an approved consultant(s). The KCBRA will consider the following when evaluating a borrower or applicant:

- May be governmental, non-profit or a private developer;
- Must provide equity to the project financially;
- Developer must demonstrate community support through site plan approval, LUG resolution, or similar relevant support;
- Applicant must have control over the property (either ownership or purchase option), and if not owned must have a signed access agreement;
- Liable status of applicant;
- Project and applicant must be financially viable to be reasonably determined by KCBRA;
- Available conceptualized redevelopment plans;
- Demonstrated experience in type of development proposed or a team that has experience in redevelopment;
- Must not be delinquent in taxes or loan payments; the applicant may be asked to make a statement regarding this matter.
- For collaborations between the KCBRA and Local Units of Government (LUG) with an established Brownfield Redevelopment Authority:
 - The KCBRA's LBRF contributions to a project will be reimbursed first in the LUG's Brownfield Plan Reimbursement Schedule;
 - There will be a written agreement memorializing the terms and conditions of the KCBRA's LBRF contributions to a project.
- Form of Loan security/collateral.

Project Requirements:

The KCBRA recognizes the impact that can be made when brownfield sites are redeveloped bringing new investment, jobs and improved conditions to a community or neighborhood. However, the resources to address all brownfield sites are limited requiring strategic deployment of the funds insuring maximum results for the community. The KCBRA has minimum expectations for projects receiving assistance and desired outcomes which will result from implementation of a project including:

Minimum Requirements:

- Strong preference that a Brownfield Plan include capture of school taxes which may require completion of an Act 381 Work Plan;
- Tax increment capture from the project Brownfield Plan must be pledged to a LBRF Loan/Grant repayment prior to reimbursement of other eligible developer costs, if applicable;
- Brownfield Plan will allow for 5 full years of capture to the LBRF;
- Must have demonstrated LUG support;
- Must have a community benefit component which may include improvements to the local economy, environment and/or brownfield conditions, public health, and socially/economically challenged neighborhoods;
- Applicant must be able to demonstrate financial viability of the project;
- Applicant must demonstrate sufficient and acceptable collateral to repay the loan, i.e. letter of credit from an acceptable financial institution; secured funds in a Certificate of Deposit, etc.;
- Applicant must enter into a Loan Repayment Agreement or Grant Repayment Agreement with the KCBRA.

- All costs associated with loan closing, including KCBRA costs, will be borne by applicant.

Desired Outcomes:

The KCBRA has also developed a list of desired outcomes for projects that receive support which, if included in the project design, may improve the likelihood of support:

- Project will remediate and/or address a contaminated property allowing for the safe operation/use of the property as defined by EGLE.
- Project will address needs of an underserved population in the community; for example, by offering affordable housing or promoting environmental justice in a marginalized area.
- Project will create jobs, especially in emerging sectors of the local economy.
- Project brings investment from outside Kalamazoo County that will catalyze additional investment in the community in the form of new businesses or industries.
- Project will catalyze transformation of a key intersection, corner, corridor or other significant area of the community.
- Project will improve infrastructure and/or reuse existing infrastructure.
- Project is TIF generating (LBRF program must be sustainable).
- Project leverages other sources of funding, especially funds outside of the County.
- Transformational project for the community.
- Reuse/redevelopment of an historic building.

General Terms and Conditions:

The Terms and Conditions of a loan and/or grant from the KCBRA's LBRF will be negotiated and included in the Loan Repayment Agreement (LRA) or Grant Repayment Agreement (GRA), for applications with funding requests of \$25,000.00 or more. The repayment period for a loan will be determined on a case-by-case basis as determined by the KCBRA but will generally not exceed **15 years**. Determining factors may include requested funding amount, the amount of private investment, and anticipated tax capture. Loan/Grant funds will be committed to a project for up to one year prior to initiation of the project. Extensions may be granted but are to be decided at the discretion of the KCBRA. Utilization of LBRF funding must be completed within two years of loan/grant commitment, or within a period to be decided at the discretion of the KCBRA, on a case-by-case basis depending on the timeline of the project.

As to be decided on a case-by-case basis, prior to conducting any activities, the borrower, or its consultant, may be asked to submit a detailed work plan to the KCBRA for approval. The work plan should include a description of the proposed activities, a budget, and a schedule for conducting the activities, and it may be required that the work plan specifically follow the most recent Act 381 Work Plan Template published by MEDC. If an Act 381 Work Plan is completed for a project, this will satisfy the KCBRA requirement for a work plan. If no work plan is required, the applicant may be asked to detail their funding request in a cover letter, along with their application for funding from the KCBRA. The KCBRA may ask for a summary of the funding request, detailing their proposed activities, a budget, estimates, and a schedule for conducting the activities. It may be decided by the KCBRA that acceptable descriptions of the funding request be detailed in the form of an invoice packet, to be reviewed by the KCBRA General Environmental Consultant. Costs incurred by the KCBRA during the approval process are the responsibility of the applicant. Work plans and invoice packets must be approved by the KCBRA, and terms and conditions of the LRA/GRA are negotiated on a case-by-case basis and at the discretion of the KCBRA.

Loan/grant funds will be paid out on a case-by-case basis and may be distributed in the form of direct invoice payment or as a reimbursement for completed activities during project implementation on a quarterly basis. Certain milestones will be established for fund distribution in the Loan Repayment and/or Grant Agreement which will include completion of approved eligible activities as outlined in an approved work plan or budget as noted above. Borrowers/Grantees may be required to submit progress reports and invoices with verification of all expenditures each quarter and an annual report summary at the end of each year. The need for these reports will be decided on a case-by-case basis.

The KCBRA will require all applicants to read and sign the LBRF Funding Request Terms and Conditions sheet, prior to preparing the Loan Repayment and/or Grant Agreement, if applicable.

Additionally, a Development Agreement will be required as part of the Brownfield Plan and Act 381 Work Plan. If a Development Agreement is already in place with an existing Brownfield Plan, that will satisfy this requirement, and will be accepted as is or otherwise amended, by the KCBRA and detailed in the LRA/GRA. The KCBRA's latest General Operational Policy for Brownfield Redevelopment Projects will also apply to all Brownfield Redevelopment Projects approved by the KCBRA.

Application Process and Associated Fees:

The KCBRA has developed an Application for Proposed Project(s) (see KCBRA website) for interested parties to request reimbursement for eligible activities through a Brownfield Plan, through the use of LBRF funds, or to request potential Brownfield Funding via State and Federal Grants and Loans. The following information outlines the process for use of LBRF funds regarding project consideration by the KCBRA, including use of the application.

LBRF Project Process:

Projects that are presented to the KCBRA for consideration of LBRF funds will follow the procedure below:

- An initial verbal inquiry is made to the KCBRA Staff for initial screening
- Applicant submits Part I Application to KCBRA Staff
- A general discussion with KCBRA staff and the interested party will ensue as to the proposed project including estimated project investment, potential eligible activities and costs, whether a Brownfield Plan exists for the eligible property, project funding needs and any financial gaps, and other information and timing requirements. Based on the merits of the project, KCBRA Staff will recommend completion of a Part II Application and/or review by KCBRA.

In addition to project considerations listed above, the following conditions are part of the Application review process:

- Upon invitation by the KCBRA, applicant must submit a complete and signed Part II Application to KCBRA Staff.
- Once a complete application is received, with applicable fees, KCBRA staff will confirm that the LUG in which the project is located supports the project.
- Once the Part II Application is reviewed by KCBRA staff, a recommendation to support or not support the application for use of LBRF funds will be made to the KCBRA. The proposed project will be placed on the agenda for the next regularly scheduled KCBRA meeting as scheduled in the Annual Public Notice.
- The KCBRA will make the determination whether to support the project and offer LBRF

Funds. The conditions of funding, i.e. grant, loan, or combination, will be determined by the KCBRA.

- If the project is supported, a LBRF Funding Request Terms and Conditions sheet may be drafted and presented to the applicant for signature. The KCBRA will require a signed Term Sheet prior to proceeding with additional requirements.
- In order for a funding request to revolve back to the LBRF, a Brownfield Plan must be in place on the site. If one does not already exist, it will be determined by the KCBRA if it is appropriate to pursue the implementation of a plan on site. The brownfield plan would need to be prepared and submitted to the KCBRA for recommendation and then undergo the full approval process, including resolutions and public notices, through the LUG and County Board of Commissioners.
- The applicant may be asked to submit to the KCBRA a Work Plan, and/or Act 381 Work Plan for review and approval and/or submittal to EGLE/MSHDA/MSF for approval. All Act 381 work plans should follow the latest template as published by MEDC. An approved/adopted Brownfield Plan, Work Plan and/or Act 381 Work Plan is required prior to preparing the Loan Repayment and/or Grant Agreement. Additionally, a Development Agreement will be required as part of the Brownfield Plan and Act 381 Work Plan. If a Development Agreement is already in place with the existing Brownfield Plan, that will satisfy this requirement, and will be accepted as is or otherwise amended, by the KCBRA and detailed in the LRA/GRA.
- All costs associated with loan closing, including KCBRA costs, will be borne by applicant.
- After approval by the KCBRA, either upon completion of the Brownfield Plan/ Work Plan and an executed Loan Repayment and/or Grant Repayment Agreement, which may include a Development Agreement, the Applicant may then proceed with the project.
- The Applicant is ultimately responsible for the overall redevelopment and environmental activities and costs.
- Borrowers/Grantees may be required to submit progress reports, and will be required to submit invoices with verification of all expenditures. These reports may be requested each quarter.. Reporting requirements are to be decided on a case-by-case basis and is to be detailed in the LRA/GRA.
- An application fee is due by the applicant, (the fee will) be based on the amount of private investment, or as otherwise decided by the KCBRA. Considerations for waiving application fees may be done on a case-by-case basis.

The KCBRA reserves the right to accept or reject any applications for assistance under this program.

Schedule:

The approval process for a project that requests LBRF funds depends on whether a Brownfield Plan is already in place, timing of applications and submittals, completeness of information provided, and the complexity of the project. Projects in need of an Act 381 Work Plan should estimate a minimum of three months for the approval process.

Amendments and Modifications:

The Kalamazoo County Brownfield Redevelopment Authority reserves the right to amend this policy for different purposes which may include but are not limited to: improvements which serve to benefit the brownfield redevelopment process; or changes in law and other applicable regulation on a local, state, or federal level. Changes to the policy will be approved by the KCBRA and made available to the community at large through its website and other mechanisms available to the KCBRA.