

# Financial Incentives for Brownfield Redevelopment

## **Federal Tax Incentive**

- Passed as part of the Taxpayer Relief Act (Public Law 105-34 signed August 5, 1007, Sec. 198 Tax Code).
- Property must be held for use in a trade or business or for the production of income; or the property must be included in the taxpayer's inventory.
- Any site where there has been a release of a hazardous substance pursuant to CERCLA. (December 21, 2000, Public Law 106-554)
- Authorized through the end of 2007.
- Any "qualified environmental remediation expense" is a deductible expense in the year incurred, rather than charging the expense to a capital account.
- Must receive a letter from the DEQ confirming site eligibility. Eligible Costs:
  - Site assessment and investigation
  - Site monitoring
  - Cleanup costs
  - Operations and maintenance costs
  - State cleanup program oversight fees, e.g. review costs of BEA's and TIF work plans.
- DEQ Contact: Darlene VanDale (989) 705-3453

## **Federal Grant Programs**

- Brownfield Assessment Grant
  - Up to \$200,000 with waiver \$350,000
  - Used for Assessment Only
  - One grant each for hazardous substance and petroleum
- Clean-up Grants
  - Up to \$200,000/site
  - For remedial actions only-not assessment
  - Up to 5 grants per recipient (\$1 Million)
  - May be awarded to non-profits
  - 20% match
- Revolving Loan Fund Grant
  - Up to \$1,000,000
  - Loans and sub-grants to eligible recipients
  - Maximum of 40% for sub-grants
  - For remedial actions only
  - 20% match
- \$ Can be Renewed with BRA TIF

## **Michigan Grant Program**

- Brownfield Redevelopment Grant
  - Up to \$1,000,000

- Local Units of Government and Brownfield Redevelopment Authorities (BRAs) are eligible
- For BEA and due care costs
- Property must be a Facility
- Economic development required

### **Michigan Loan Programs**

- MDEQ Revitalization Loans
  - Amount Negotiable
  - Units of government and BRAs eligible
  - BEAs, Demolition, & Interim Responses necessary for BEAs or Demolition.
  - 5 Year Deferred Payment and Interest
  - 2% Interest
  - May be repaid with TIF
  - Economic development potential required
  - Past use must indicate potential contamination
  - May benefit liable parties
- Clean Michigan Initiative Loans - Differences
  - \$1 million maximum
  - Covers all Part 201 Response Activities
  - May be used for demolition on property that is a facility and where a developer is identified. Demolition does not need to be a response activity.

### **Brownfield Tax Increment Financing**

- Municipality creates a Brownfield Redevelopment Authority (BRA)
- BRA and governing body approve a Brownfield Plan that utilizes Tax Increment Financing (TIF) to fund eligible activities
- Eligible activities vary depending on whether the Municipality is a Core City, a Non-Core City or a Land Bank.
- Eligible Properties:
  - A Facility under Part 201
  - Blighted or Functionally obsolete property in a Core City
  - Any property owned or under the control of a Land Bank Authority
  - Adjacent and contiguous properties
- Eligible Activities for both Core and Non-core Cities
  - Environmental Investigations (Baseline Environmental Assessment)
  - Due-Care (Cleanup) Activities
  - Response activities necessary to mitigate unacceptable environmental risk
- Additional Eligible Activities for Core Cities Only:
  - Demolition
  - Asbestos and Lead Abatement
  - Infrastructure Improvements
  - Site Preparation

- Eligible Activities for Land Banks
  - All previously mentioned activities
  - Assistance in clearing and quieting title
  - Assistance in selling or conveying property

### **Michigan Single Business Tax Credit**

- To Be Eligible, Property must be:
  - Included in a Brownfield Plan
  - Be owned or leased by the taxpayer
  - Not under a cleanup order issued to the taxpayer
- Pre-approval Necessary
  - Chair of the Michigan Economic Growth Authority for credits up to \$1 million (\$30 M Annual Cap)
  - Michigan Economic Growth Authority for credits between \$1 million and \$30 million (Max. 12 Credits)
- 10% of Eligible investment costs on an eligible property
- Eligible Investment Costs include:
  - Demolition
  - Construction
  - Building Improvements
  - Machinery and Equipment
- SBT Expires on Dec. 31, 2007

### **Obsolete Property Tax Abatement**

- Core Cities establish obsolete property rehabilitation districts
- Buildings and improvements may be exempt from *ad valorem* property taxes
- Property tax exemption may last up to 12 years
- School taxes can be 50% abated for up to 6 years by the State Tax Commission
- To Qualify the Property must be:
  - Commercial or Commercial Housing
  - Blighted or Functionally Obsolete

## Brownfield Basics

### What is a Brownfield?

- A property where environmental conditions, actual or perceived, are an obstacle to redevelopment.
- A real estate deal with an environmental component.
- EPA: With certain legal exclusions and additions, the term 'brownfield site' means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. (Public Law 107-118 (H.R. 2869) - "Small Business Liability Relief and Brownfields Revitalization Act" signed into law January 11, 2002)
- DEQ: A property that is a "facility" under Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, or is in a "qualified local governmental unit" (Core City) under the Obsolete Property Rehabilitation Act, 2000 PA 146, and is blighted or functionally obsolete.

### Liability

- EPA: A person who caused environmental contamination or is in the chain of title of a site of environmental contamination is liable for correcting the condition unless protected as a "bona fide prospective purchaser."
  - All disposal of hazardous substances occurred prior to purchase
  - All appropriate inquiry into previous ownership and uses has been made
- DEQ: The person who caused the contamination. Also the owner of the contaminated site unless protected by a baseline environmental assessment (BEA).

### Establishing Liability Protection

- Phase I Environmental Site Assessment. Review existing records and do a site inspection to identify "recognized environmental conditions."
- Phase II Environmental Site Assessment. Environmental testing to confirm the phase I and provide the basis for the BEA and becoming a bona fide prospective purchaser.
- Take appropriate "due care" actions under state law or "care" under Federal law. (Cleanup actions based on new use of the property.)