



Antrim County Brownfield Redevelopment Authority

Antrim County Brownfield Redevelopment Authority
meeting is scheduled for

Tuesday, February 20, 2024 at 11:00 a.m.

Antrim County Building
Board of Commissioners Room
203 East Cayuga Street, Bellaire, Michigan

MEMBERS

Sherry Comben
12/31/2026

Garry Ellison
12/31/2026

Peter Garwood
12/31/2025

Cherie Hogan
12/31/2027

Rachel Krino
12/31/2027

Dawn LaVanway
Annual Appointment

Kathleen Peterson
12/31/2026

Tim Timmer
12/31/2028

Christy Wilson
12/31/2028

STAFF

Jeremy Scott
County Administrator
BRA Director

Janet Koch
Deputy Administrator

Gayle Rider
Administrative Asst.

Margie Boyd
Secretary

OFFICE ADDRESS

P.O. Box 187
Bellaire, MI 49615

PHONE: 231-533-6265

FAX: 231-533-8111

SPECIAL ASSISTANCE

If you wish to attend a meeting and require special assistance, please contact the Administration Office.

AGENDA ITEMS:

1. Call to Order
2. Public Comment
3. Approval of Minutes – [January 16, 2024](#)
4. Treasurer Reports (*pgs. 3-4*)
 - Revised December 2023
 - January 2024
5. Bellaire Loft Brownfield Project
 - Act 382 Work Plan (*pg. 5-32*)
 - Development and Reimbursement Agreement (*pg. 33-57*)
6. Various Matters
7. Public Comment
8. Adjourn

*If you have any questions or concerns, please contact the Administration and Planning Office at 231-533-6265.
We appreciate your cooperation in this matter. Thank you.*



Antrim County Administration Office Memorandum

February 20, 2024

TO: Antrim County Brownfield Redevelopment Authority

FR: Administration Office

RE: Approval of Meeting Minutes

You received the [minutes of the January 16, 2024](#) Brownfield Redevelopment Authority meeting via electronic communication on January 19, 2024. If there are no corrections to those minutes, please consider the following motion:

To approve the minutes of the January 16, 2024 meeting as presented.

Antrim County Brownfield Authority

Brownfield Revolving Fund Fund 242

Beginning Cash Balance	12/1/2023		\$	5,446.08
Revenue				
Brownfield Fees		\$	-	
Interest		\$	9.81	
Transfer In		\$	-	
	Total Revenue		\$	9.81
Expenditures				
Contractual Services				
MAC Consulting Services LLC	12/27/2023	\$	(3,237.24)	
	Total Expenditures		\$	(3,237.24)
Ending Cash Balance	12/31/2023		\$	2,218.65

Submitted:

Sherry A Comben, Treasurer

2/12/2024

Revised

Antrim County Brownfield Authority
 Brownfield Revolving Fund Fund 242

Beginning Cash Balance	1/1/2024	\$	2,218.65
Revenue			
Brownfield Fees		\$	-
Interest		\$	(1.32)
Transfer In		\$	-
	Total Revenue	\$	(1.32)
Expenditures			
Contractual Services		\$	-
	Total Expenditures	\$	-
Ending Cash Balance	1/31/2024	\$	2,217.33

Submitted:
 Sherry A Comben, Treasurer

2/12/2024			
Rec'd 02/04/24			
Outstanding Services			
December 2023		\$	(2,790.52)
January 2024		\$	(1,170.52)
		\$	(3,961.04)
		\$	(1,743.71)

Antrim County Brownfield Redevelopment Authority
February 20, 2024

SUBJECT: MSHDA Act 381 Work Plan – Bellaire Lofts

FROM: Mac McClelland

SUMMARY: Attached is the draft Act 381 Work Plan for Housing Development Eligible Activities for Bellaire Lofts at 6612 Bellaire Highway. The Act 381 Work Plan is presented for consideration of authorization of submittal by the Antrim County Brownfield Redevelopment Authority to the Michigan State Housing Development Authority (MSHDA) for approval of State tax capture.

As we have discussed, the implementation of the addition of Housing Property as Brownfield Eligible Property and Housing Development Activities as Brownfield Eligible Activities that can be reimbursed through the capture of future increased incremental taxes generated by additional private investment has raised many questions.

One of those questions is the format for the submittal of an MSHDA Act 381 Work Plan for Housing Development Activities. An update to the State’s Act 381 Work Plan Guidance document and the Act 381 Work Plan template to incorporate Housing Development Activities is underway, but not yet completed.

The amendments to Act 381 in Section 15(10) added approval of a work plan by MSHDA in the subsection as approval of a work plan by the Michigan Strategic Fund (MSF), with the same format and criteria. Section 15(12) (m) includes additional criteria for MSHDA review, including:

- (i) Alignment with the statewide housing plan developed.
- (ii) The capacity of the entity or agency that is monitoring price and income, and the duration of the monitoring.
- (iii) Whether the project will support housing at price points that align with the local workforce.
- (iv) If the property will be deed restricted to regulate short-term rentals or otherwise ensure long-term local housing needs.

Section 15(12)(n) also provides the capability for MSF or MSDHA to add any other criteria they consider appropriate.

MSHDA developed a Program Statement to present to the MSHDA Board of Directors in September 2023 that included Addendum II Work Plan or Combined Brownfield Plan Review Criteria: Programmatic Parameters that is attached.

Fishbeck has prepared and submitted an Act 381 Work Plan in a format which responds to the Programmatic Parameters. For the most part, the required information is included.

My interpretation is that the Review Parameters include the process by which MSDHA will evaluate Act 381 Work Plans and does not prescribe the format for an Act 381 Work Plan.

There is an existing Act 381 Work Plan template and in conversation with MEDC and MSDHA officials, the proposed Act 381 Work Plan template will remain essentially the same format, with the additional MSHDA items provide at the end of the Act 381 Work Plan. A sample table of contents and attachments based on the current format is attached.

The Act 381 Work Plan is a document of and must be submitted by the Brownfield Authority to MSHDA

As a result, the MSDHA Act 381 Work Plan will need to be reformatted. Based on project timing, authorization to submit the MSHDA Act 381 Work Plan by the Authority is requested, with final approval by the County Administrator and the ACBRA Consultant.

RECOMMENDATION

Authorize submittal of the Act 381 Work Plan for Housing Development Eligible Activities, site preparation and housing financing gap to the Michigan State Housing Development Authority (MSHDA), for consideration of State tax capture approval for Bellaire Lofts, with approval as to substance and form by the County Administrator and the ACBRA Consultant.

Act 381 Work Plan for Housing Development Eligible Activities
<PROJECT>
<COMMUNITY>, <COUNTY>, Michigan

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Attachment B	Purchase Agreement
Attachment C	Project Budget
Attachment D	PUD Zoning Approval Resolution
Attachment E	Development and Reimbursement Agreement

Addendum II
Work Plan or Combined Brownfield Plan Review Criteria:
Programmatic Parameters

**BROWNFIELD WORK PLAN OR COMBINED BROWNFIELD PLAN
REVIEW
PROGRAMMATIC PARAMETERS**

1. Threshold Submission Requirements:

- i. Does the brownfield plan include the use of taxes levied for school operating purposes? If so, is the work plan or combined brownfield plan requesting reimbursement for housing development activities? Is at least some portion of the housing to be developed subsidized or to be sold or rented to households at or below 120% AMI? YES NO
 - a. If no to any of these questions, STOP AND DENY:
MSHDA has no statutory authority to review the plan, and it must be returned to the submitting BRA.

- ii. Was the plan submitted by the local BRA or duly authorized municipal designee? YES NO
 - a. If no, STOP AND DENY:
A work plan submitted under Section 15(10), or a combined brownfield plan submitted under Section 15(20)(b), must be submitted to MSHDA by the local BRA.
 - b. Return to the submitting party.

- iii. Is the work plan part of a transformational brownfield plan?
 YES NO
 - a. If yes, pursuant to Section 15(11) the BRA must complete all required financial analyses prior to submitting a work plan to MSHDA.
Was the required financial analysis completed by the BRA? YES NO
 - b. If no, STOP AND DENY.
 - c. Return to the submitting BRA.

- iv. Did the BRA submit for each eligible property pursuant to Section 15(10) the following items?
 - a. A copy of the brownfield plan or the transformational brownfield plan.
 YES NO

- b. Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due. ___YES___NO
- c. A summary of available information on the historical and current use of each eligible property. ___YES___NO
- d. Existing and proposed future zoning for each eligible property. ___YES___NO
- e. A summary of the proposed redevelopment and future use for each eligible property. ___YES___NO
- f. A separate work plan, or part of a work plan, for each eligible activity described in Section 13b(4) to be undertaken. ___YES___NO
- g. A copy of the development agreement or reimbursement agreement between the municipality or authority and an owner or developer of eligible property required under Section 13b(4), which must stipulate price and monitoring for residential units, and include a detailed summary of any and all ownership interests, monetary considerations, fees, revenue and cost sharing, charges, or other financial arrangements or other consideration between the parties. ___YES___NO
- h. For work plans that include housing development activities, a summary of proposed income and price monitoring responsibilities and related expenses. ___YES___NO
 - 1. If not all of the items listed in iv.(a)-(h) were included, which item(s) is/are missing?

 - 2. If no, STOP AND DENY the work plan or combined brownfield plan for incompleteness. List missing items in the response letter to the submitting BRA.

- v. Are the eligible activities in the combined brownfield plan or work plan submitted by the BRA consistent with the eligible activities described in Section 13b(4)? ___YES ___NO
 - a. If no, which eligible activities are inconsistent
 - 1.
 - 2.
 - 3.

- b. If no, STOP AND DENY the work plan or combined brownfield plan for inconsistency.

2. Housing Work Plan and Combined Brownfield Plan Review Criteria:

- i. Does the development agreement or reimbursement agreement between the municipality or BRA and an owner or developer of eligible property stipulate price and income monitoring for residential units? ___YES ___NO
 - a. If no, DENY the work plan or combined brownfield plan for lack of development agreement or reimbursement agreement that stipulates price and income monitoring for residential units and continue review of additional criteria.
- ii. The following criteria will be considered to the extent reasonably applicable to the type of activities proposed as part of the submitted work plan or combined brownfield plan when approving or denying a work plan or combined brownfield plan:
 - a. Are the individual activities included in the work plan or combined brownfield plan sufficient to complete the proposed eligible housing development activity?
 - 1. Rehabilitation and new construction projects must submit a copy of a purchase agreement and Development Cost Budget.

Was a copy of a purchase agreement provided and are all Development Cost Budget items listed within the work plan or combined brownfield plan? __YES__NO
 - b. If no, explain what is missing and what needs to be done to achieve completion of the proposed eligible housing development activity:

 - c. If no, add the items that are missing or that need to be done to the terms of a conditional approval.
- iii. Is each individual activity included in the work plan or combined brownfield plan required to complete the eligible housing development activity?
___YES ___NO

- a. In order for individual activities to be deemed to be required to complete the eligible housing development activity, they must be limited to those items detailed in the Development Cost Budget. All other activities will be deemed not required to complete the eligible housing development activity.
- b. If no, explain what is not required to be done to complete the eligible housing development activity:

- c. If no, add to the terms of a conditional approval a listing of the items to be removed as not required to complete the eligible housing development activity.

iv. Is the cost for the eligible housing development activity reasonable?

- a. Utilize the Potential Rent Loss (PRL) Gap Cap & Total Housing Subsidy (THS) Calculations worksheet to determine reasonableness of gap funds needed to develop affordable housing versus market rate housing. A copy of the completed worksheet must be attached to this document.

YES NO

Total Tax Increment Capture	_____
Calculated Housing Gap Cap	_____
Calculated Remaining Tax Capture	_____

v. Is there an overall benefit to the public? YES NO

- a. To be of a public benefit, the proposed housing development must meet one of the following:

1. Satisfies a housing need determined by a current local housing needs assessment (no more than 3 years old), which is provided to MSHDA.
2. Satisfies a housing need for the area as determined by a current housing market study.
3. Satisfies a housing need identified in the Michigan Statewide Housing Plan found on MSHDA's website.

4. Satisfies a housing need identified in a regional housing study.

b. If no, explain why the proposed housing development provides no overall benefit to the public.

c. If there is no overall benefit to the public, the project is denied as lacking public benefit.

vi. Is there reuse of vacant buildings and redevelopment of blighted property?
___YES ___NO

This item is only applicable to work plans or combined brownfield plans specifically identifying the redevelopment of "blighted" property as defined in PA 90. For all other work plans or combined brownfield plans, this item is not applicable.

a. If yes:

1. Is the vacant building being torn down or repurposed?

2. If the property is blighted, under what definition found in Section 2(c) is the property considered blighted?

3. If blighted, is the acquisition cost to promote rehabilitation or adaptive reuse of the blighted or obsolete rental unit included in eligible activities? ___Yes ___No
Amount of acquisition cost_____.

b. Explain as applicable in the recommendation summary:

1. The proposed reuse of or demolition of vacant buildings_____

2. Method used to determine that the property is blighted. A letter from the local municipality is acceptable.

3. Is acquisition cost of blighted or obsolete property included as an eligible activity? ___Yes ___No

If no, add as conditional requirement that the cost be added or that the developer provide written confirmation that it was not omitted in error.

4. Is the property properly zoned, or must it be rezoned?

If it must be rezoned before the housing development can commence, add the requirement that the property must be properly zoned to the conditional approval.

vii. Are new jobs being created?

This item is not applicable to affordable or subsidized housing work plans or combined brownfield plans.

viii. Is the eligible housing development in an area of high unemployment?

This item is not applicable to affordable or subsidized housing work plans or combined brownfield plans.

ix. What is the level and extent of contamination alleviated by or in connection with the eligible activities?

a. A proposed housing development work plan must include an environmental review that meets MSHDA's Environmental Review Requirements found on MSHDA's website.

1. If the environmental review discloses that the proposed housing development site has environmental contamination, did EGLE provide clearance for residential development? YES NO

2. If not cleared as evidenced by documentation from EGLE for residential development, the work plan or combined brownfield plan will be conditionally approved subject to EGLE clearance of the site for residential development.

x. What is the level of private sector contribution, including but not limited to private placement loans and developer contributions?

This item is provided for documentation only and is not used as a

factor to determine approval or denial of the work plan or combined brownfield plan.

- a. Add to the project summary the level of private sector contribution, including but not limited to private placement loans and developer contributions.
- xi. Is the projected occupant of the new development moving from another location in this state and will the move create a brownfield?

This item is not applicable to affordable or subsidized housing work plans or combined brownfield plans.

- xii. Is the developer, landowner, or corporate entity that is included in the work plan or combined brownfield plan financially and economically unsound as determined by a review of the following requirements?
___YES ___NO
 1. Is in default or in material non-compliance with the LIHTC or any other MSHDA program; or
 2. Has outstanding flags in HUD's national 2530 National Participation system; or
 3. Has been debarred or suspended from any MSHDA, HUD, or Rural Housing programs; or
 4. Has outstanding tax liens; or
 5. Does not have liquid assets at least equal to 3% of the proposed project housing development eligible activity costs.
 - a. Deny if the developer, landowner, or corporate entity that is included in the work plan or combined brownfield plan is deemed financially and economically unsound based on the above criteria.

- xiii. Are there other state and local incentives or subsidies available to the developer, landowner, or corporate entity for the housing development project that are included in the work plan or combined brownfield plan? ___YES ___NO
 - a. What are the sources, uses and amounts of the other state and local incentives or subsidies provided? _____
Provide in the project recommendation summary.
 - b. Are the other state and local incentives or subsidies firm commitments or contingent on some event? _____
Explain in the project recommendation summary.

- c. Do the other state and local incentives or subsidies permit the housing development to serve lower income households, seniors, homeless, persons with disabilities or other at-risk populations as may be deemed locally necessary based on housing reports or market studies?

Explain in the project recommendation summary.

- d. If the other state and local incentives or subsidies are required for financial viability and are there are not firm commitments, the housing development work plan or combined brownfield plan will be conditionally approved until the firm commitments are provided. Otherwise note the various incentives and subsidies in the recommendation summary and mark for approval.
- xiv. Does the proposed housing development align with the statewide housing plan?
___YES ___NO
- a. If no, what are the stated reasons for deviation? Does the local municipality support the proposed housing development activity as may be evidenced by a PILOT resolution or providing other development incentives? How did the developer determine that this housing need existed (e.g. local market study, community development plans, local needs analysis)?
 - b. Deny if the work plan or combined brownfield plan is not aligned with the statewide housing plan and documented support for deviation from the statewide housing plan and/or community support for the proposed housing development is not provided.
 - c. Approve if the work plan or combined brownfield plan is aligned with the statewide housing plan or documented support for deviation from the statewide housing plan and/or community support for the proposed housing development is provided.
 - d. Explain how the project is aligned with the statewide housing plan or how the documentation provided supports a deviation from the statewide housing plan in the project recommendation summary.
- xv. Does the entity or agency monitoring price and income have the capacity to provide such monitoring, evidenced by experience providing such monitoring services based on the following criteria? ___YES ___NO

- a. How many years of experience does the monitoring entity or agency have in Michigan? _____
- b. An entity with limited experience and capacity monitoring price and income is defined as:
 - 1. An organization that has less than three years of price and income monitoring experience in programs such as Section 8, LIHTC, or HOME; or
- c. Explain in the project recommendation summary whether the entity or agency has limited, or sufficient monitoring experience based on the above criteria.
 - 1. If the entity or agency has limited experience, grant a conditional approval based on either: (a) changing the monitoring entity or agency to one with sufficient experience in monitoring price and income for affordable housing; or (b) partnering with a sufficiently experienced monitoring agency; or (c) receiving two hours or more of training with MSHDA staff on income monitoring processes and procedures.
 - 2. What is the duration of the price and income monitoring?

For-sale housing is to be monitored for price and household income through the first sale. Rental properties are to be monitored for a period not less than the expiration of projected tax increment capture but may be longer depending on other programmatic requirements.

 - 3. If the proposed price and income monitoring duration does not meet the above, recommend a conditional approval to require changes to the duration of the price and income monitoring.

xvi. Does the proposed housing development project support housing at price points that align with the local workforce based on localized area income and community data provided? Explain in the recommendation summary how the housing development price points either align or do not align with the local workforce income and community data.
 ___YES ___NO

- a. Deny if the housing development project does not support housing at price points that align with the local workforce based on information provided by the BRA to MSHDA.
 - b. Approve if the housing development project supports housing at price points that align with the local workforce based on information provided by the BRA to MSHDA.
- xvii. Is the proposed housing development to be income restricted for a period not less than the period of tax capture by providing deed restrictions to ensure the development meets long-term local housing needs? YES NO
- a. If yes, do the terms of the draft deed restrictions match the proposed AMI levels to be served at the proposed housing development?
YES NO
 - 1. If no to either, set as a conditional approval item that the developer agrees to deed restrict the property for affordable housing dedicated to serve AMI levels as detailed in the project proposal for a period not less than the proposed tax capture.
 - 2. If yes to both, approve and note in the approval letter the deed restricted AMI level(s) and duration of deed restriction.

Act 381 Work Plan

**Bellaire Lofts
6612 Bellaire Highway
Bellaire, Michigan**

**Prepared For:
Antrim County Brownfield Redevelopment Authority
Bellaire, Michigan**

**January 30, 2024
Project No. 231374**

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List of Abbreviations/Acronyms

ACBRA Antrim County Brownfield Redevelopment Authority

AMI Area Median Income

BRA Brownfield Redevelopment Authority

EGLE Michigan Department of Environment, Great Lakes, and Energy

ESA Environmental Site Assessment

HUD U.S. Department of Housing and Urban Development

LIHTC Low Income Housing Tax Credit

MEDC Michigan Economic Development Corporation

MSHDA Michigan State Housing Development Authority

PA Public Act

PRL Potential Rent Loss

PUD Planned Unit Development

THS Total Housing Subsidy

TIF tax increment financing

TIR tax increment revenues

1. Threshold Submission Requirements

i. Taxes Levied for School Operating Purposes

Does the brownfield plan include the use of taxes levied for school operating purposes? Yes

If so, is the work plan or combined brownfield plan requesting reimbursement for housing development activities? Yes

Is at least some portion of the housing to be developed subsidized or to be sold or rented to households at or below 120% AMI? Yes

This Act 381 Work Plan has been prepared for the Antrim County Brownfield Redevelopment Authority (ACBRA) to provide a means to capture state school and state education tax increment revenues for the reimbursement of eligible Michigan State Housing Development Authority (MSHDA) activities, consistent with a Brownfield Plan adopted for the Bellaire Lofts.

This plan helps to offset the cost gap associated with the development by reimbursing the developer for eligible activities with the new tax increment generated by the project including pre-approved department specific activities, housing development activities including site preparation and the development of housing financing gap, Brownfield Plan and Work Plan preparation costs, and Brownfield Plan and Work Plan implementation costs.

The proposed project will facilitate the redevelopment of a 19-acre former gravel pit currently occupied by two small utility buildings. The 1983 Company will construct 50 townhomes for rent to households at or below 120% of Antrim County's Area Median Income (AMI). Forty-eight of the 50 townhomes will be built with private, secure bedroom/full-bathroom suites for families or roommates. Roommates would share a kitchen and living room; families would have an ordinary two- or three-bedroom townhome with three full baths. The flexible building design includes a space that can be used either as a dining room or a third suite. Two first-floor, one-bedroom apartments will be constructed using universal design standards for people with physical disabilities. The project will include a total of 144 suites and two universal design units. Bellaire Lofts will be targeted toward individuals and families earning up to 120% of Antrim's AMI. Rents will range from \$825 for a single suite in a townhome to \$2,400 for a full two- to three-bedroom, three-bath townhome. Modular construction will allow the townhomes to be constructed offsite during the winter and shipped to Bellaire in the spring, with occupancy planned for late spring/early summer 2024.

The property qualifies as "eligible property" under the Brownfield Redevelopment Financing Act, 1996 PA 381, as amended ("Act 381"), on the basis of meeting the definition of a "Housing Property" in Section 2(p)(ii), which allows for an expanded scope of eligible brownfield activities.

ii. Submitted by the Local BRA

Was the plan submitted by the local BRA or duly authorized municipal designee? Yes

The ACBRA is the submitter.

iii. Part of a Transformational Brownfield Plan

Is the work plan part of a transformational brownfield plan? No

iv. Items Submitted for the Brownfield Plan

a. Copy of the Brownfield Plan

A copy of the Brownfield Plan is included in Appendix 1.

b. Current Ownership Information

Bellaire Lofts is currently owned by The 1983 Company, LLC, whose address is 452 Ada Drive SE, Ste 220, Ada, MI 49301. The contact representative is Isaac Oswalt, isaac@1983company.com. The 1983 Company, LLC became the owner of 6612 Bellaire Highway in 2023. The 1983 Company, LLC is expected to retain ownership.

There are currently no delinquent taxes, interest, or penalties due on the Eligible Property.

c. Historical and Current Use of Each Property**Historical Use**

The Subject Property contained a fruit orchard from at least 1938 through 1954. In 1938, approximately 400 trees were present, which decreased substantially to 50 trees by 1954. Since that time, the Subject Property remained wooded and undeveloped until the late 1990s, when Subject Building 1 was constructed. A gravel pit was present on the Subject Property in the 1990s. In 2004, Subject Building 2 was constructed and the majority of the Subject Property was cleared for future development, which appeared to be associated with residential housing or condominiums.

The Phase I Environmental Site Assessment (ESA) identified Sam Lewis as the previous property owner who attempted to develop the western portion of the Subject Property with multiple, single-family residential houses on several sub-divided lots. The redevelopment failed and the property was foreclosed in 2008 and purchased by Jennifer M. Barnard, who retained ownership until the property was purchased by The 1983 Company, LLC.

Current Use

The Subject Property consists of one legal parcel occupying an approximately 19-acre former gravel pit currently occupied by two small utility buildings. Subject Building 1 (2,160 square feet) was constructed in 1996 with an addition in 2014, and Subject Building 2 (400 square feet) was constructed in 2004. The remaining portion of the property is currently vacant, consisting of undeveloped wooded land and a terraced hill/former gravel mine.

d. Existing and Proposed Future Zoning

The property was approved for a Planned Unit Development (PUD) by the Village of Bellaire Planning Commission on September 12, 2023. The PUD is the existing and proposed zoning for the Bellaire Lofts eligible property.

e. Summary of the Redevelopment and Future Use

The proposed project will facilitate redevelopment of the 19-acre former gravel pit into 50 townhomes for rent. Forty-eight of the 50 townhomes will be built with private, secure bedroom/full-bathroom suites for families or roommates. Roommates would share a kitchen and living room; families would have an ordinary two- or three-bedroom townhome with three full baths. The flexible building design includes a space that can be used either as a dining room or a third suite. The project will include a total of 144 suites. In addition, two first-floor, one-bedroom apartments will be designed for people with physical disabilities. Bellaire Lofts will be targeted toward individuals and families earning up to 120% of Antrim's AMI. Rents will range from \$825 for a single suite in a townhome to \$2,400 for a full two- to three-bedroom, three-bath townhome. Modular construction will allow the townhomes to be constructed offsite during the winter months and shipped to Bellaire in the spring, with occupancy planned for late spring/early summer 2024.

Bellaire Lofts consists of 50 townhomes totaling approximately 43,609 square feet of residential space. The development also includes 64,609 square feet of pavement (street and parking); 13,514 square feet of sidewalks; and 687,177 square feet of landscaping, lawn, and pervious pavement.

The Subject Property is currently occupied by two small utility buildings. Subject Building 1 (2,160 square feet) was constructed in 1996 with an addition in 2014, and Subject Building 2 (400 square feet) was constructed in 2004. The buildings are vacant and will be reused as storage and a bike repair shop for the residents.

The total investment for Bellaire Lofts redevelopment is estimated at \$17,000,000. The project is intended to start construction at the end of 2023 and be completed by late spring or early summer 2024.

f. *Work Plan for Each Eligible Activity*

Only MSHDA approval of eligible activities is requested. Michigan Economic Development Corporation (MEDC) approval will not be necessary as the development is solely focused on residential housing targeted toward individuals and families earning up to 120% of Antrim’s AMI. Michigan Department of Environment, Great Lakes, and Energy (EGLE) approval is also not necessary as minimal EGLE activities are anticipated, and the EGLE Eligible Activities are preapproved under Act 381.

The Eligible Activities under this Work Plan and are described below.

g. *Development and Reimbursement Agreement*

A copy of the Development and Reimbursement Agreement is presented in Appendix 2.

h. *Proposed Income and Price Monitoring Responsibilities*

The duration of the commitment to provide the AMI-limited residential units will be 30 years, as authorized under the Bellaire Lofts Brownfield Plan and the Development and Reimbursement Agreement between the ACBRA and The 1983 Company, LLC (refer to Appendix 2). Pursuant to the Development and Reimbursement Agreement:

- The 1983 Company will use MSHDA’s annual Income and Rent Limits report for Antrim County to establish rents at or below 120% of Antrim County’s AMI for 77 units and at or below 100% of Antrim County’s AMI for 25 units.
- The 1983 Company will annually verify renter incomes using MSHDA’s Household Income Self-Certification Form or another method acceptable to MSHDA.
- The 1983 Company will verify that units are occupied by renters that meet income requirements for their units.
- The 1983 Company will report to the ACBRA annually by June 15 all information required for the State of Michigan brownfield reporting portal, including the number of income restricted units rented, number of days those units were occupied, the number of income qualified renters, and the rent amounts for income restricted units.

v. *Eligible Activities*

Are the eligible activities in the combined brownfield plan or work plan submitted by the BRA consistent with the eligible activities described in Section 13b(4)? Yes

a. *Description of Costs to be Paid for with Tax Increment Revenues*

This Act 381 Work Plan has been developed, consistent with the approved Bellaire Lofts Act 381 Brownfield Plan, to reimburse existing and anticipated costs to be incurred by The 1983 Company. Local and state school and education tax increment revenues will be captured for reimbursement, following approval of this MSHDA Act 381 Work Plan. Eligible activities must benefit “income-qualified households,” defined in Act 381 Section 2(z) as “a person, a family, or unrelated persons living together, whose annual household income is not more than 120% of the area median income.”

The total cost of the eligible activities is anticipated to be \$9,985,533. The estimated cost of all eligible activities under this plan is summarized in Table 1. Authority administrative and implementation costs are anticipated to be

up to \$290,109. The capture of tax increment revenue for the Local Brownfield Revolving Fund (LBRF) is estimated to be \$0.

b. *EGLE Eligible Activities*

Site Assessment and Baseline Environmental Assessment Activities

Eligible costs for reimbursement include Pre-Approved Activities: a Phase I ESA (\$3,550) and Phase II ESA (\$8,750). Phase II ESA sampling did not show contamination, so a Baseline Environmental Assessment is not required. Pre-Approved Activities are statutorily eligible for reimbursement with both school and non-school tax increment revenues. EGLE approval of these Eligible Activities is not required.

c. *MEDC Eligible Activities*

All Non-Environmental Eligible Activities are included in the MSHDA Housing Development Eligible Activities provided under Section 2(o)(ii) and described below in Section 2.iii. of this MSHDA Act 381 Work Plan. No Eligible Activities will be submitted to the Michigan Strategic Fund (MSF) for approval.

d. *MSHDA Housing Development Eligible Activities*

Site Preparation

Act 381 Section 2(x)(iii) permits reimbursement from tax increment revenues for “costs of . . . site preparation, to the extent necessary to accommodate an income-qualified . . . renting household.” Site preparation activities are anticipated in the subject project area to prepare the property for the development of income-qualified housing and include land balancing, grading, clearing and grubbing, and compaction, totaling \$160,000. Additional site preparation activities include a temporary facility (\$2,250), temporary site control (\$10,000), and associated soft costs (\$8,500). The total cost of site preparation activities is anticipated to be \$180,750.

Development of Housing Financing Gap

Act 381 Section 2(x)(iv) permits reimbursement from tax increment revenues “to fill a financing gap associated with the development of housing units priced for income-qualified households.” The Bellaire Lofts project includes 144 one-bedroom/full-bath suites marketed at a \$825 monthly unit rent (or \$2,400 for a full townhome) and two one-bedroom universal design units marketed at \$1,625 per month. While the monthly rents are comparable to other local rents, the cost of new construction will not permit rents at these rates without a housing construction subsidy.

The formula provided by MSHDA for determining the housing gap results in a gap amount that far exceeds available tax increment financing (TIF) revenues; refer to Appendix 3 for the Potential Rent Loss (PRL) and Total Housing Subsidy (THS) calculation using the prescribed MSHDA format. The 1983 Company instead proposes to capture the available tax increment for 30 years and will keep rents within MSHDA’s allowable range for households at or below 120% of the AMI for the duration of the Brownfield Plan’s developer reimbursement.

Based on the project’s construction costs, maintenance, and management of the development:

- With the anticipated TIF reimbursement, rents could be as low as \$825 per person (except for the units configured for people with disabilities).
- Without TIF, which would also void a MSHDA grant for the project, rent would be \$1,225 or more per person. Housing North’s Market Study for Antrim County and area incomes does not support this higher rent cost.

The proposed maximum TIF capture in the plan will subsidize the rent for each resident at a rate of about \$2,000 per year or \$172 per month per person. The anticipated MSHDA grant will further reduce the revenue shortfall, resulting in a rent reduction of \$400 per person. Rents at this level are wholly dependent on TIF revenues and other incentives leveraged by TIF revenues.

The project will have 144 suites and two one-bedroom units. Assuming one person per suite:

- \$400 per month subsidy x 146 people = \$58,400 per month difference in revenues vs. revenues without housing incentives
- \$700,800 difference per year in revenues vs. revenues without housing incentives
- \$21,024,000 difference in revenues over the 30 years in the Brownfield Plan vs. revenues without housing incentives

All project financing, both private lenders and the MSHDA grant, depends on 30 years of TIF to help make project financing payments. At a rent of \$825 per person, revenues are not enough to cover operating costs and construction loan payments. Without the TIF, either rents must be much higher than the local workforce can pay or the project is not feasible.

Brownfield Plan/Work Plan Preparation and Implementation

The ACBRA's cost for review and processing of the Brownfield Plan was \$10,000. Preparation of the Brownfield Plan is estimated to cost \$12,200. The MSHDA Act 381 Work Plan is estimated to cost \$10,000. Brownfield Plan and/or Work Plan Implementation is anticipated and is estimated to cost \$50,000. The total cost of these activities is anticipated to be \$82,200.

Contingency

No contingency amount has been included in the plan.

e. Local-Only Eligible Activities

Authority Administration Cost

Eligible costs incurred by the ACBRA are included in this plan as an eligible expense at 5% of annual local tax increment capture per year. These expenses will be reimbursed with local tax increment revenues only and are estimated to total up to \$290,109.

2. Housing Work Plan Review Criteria

i. Development and Reimbursement Agreement Stipulates Price and Income Monitoring

Does the development agreement or reimbursement agreement between the municipality or BRA and an owner or developer of the eligible property stipulate price and income monitoring for residential units? Yes

The Development and Reimbursement Agreement between the ACBRA and developer is presented in Appendix 2.

ii. Activities are Sufficient to Complete Housing Development Activity

Are the individual activities included in the work plan or combined brownfield plan sufficient to complete the proposed eligible housing development activity? Yes

Rehabilitation and new construction projects must submit a copy of a purchase agreement and development cost budget.

The developer already owns the property, so a purchase agreement is not applicable.

The MSHDA Eligible Activities proposed under this Act 381 Work Plan have been evaluated thoroughly to develop accurate scopes of work, costs, and plans for implementation. Section 2.iii. provides a detailed work scope for

each of the MSHDA Eligible Activities. Implementation will be governed by the Development and Reimbursement Agreement. The following is a brief explanation of sufficiency for each eligible activity:

- **Site Preparation:** Site preparation activities will address site conditions including land balancing, grading, clearing and grubbing, compaction, temporary facility, temporary site control, and soft costs. The site preparation activities will meet the needs for site development and are sufficient to complete this eligible activity.
- **Housing Financing Gap:** The cost of developing and operating housing for households at or below 120% AMI is greater than rental revenue. The inclusion of the Housing Financing Gap with documentation and monitoring of income and rental rates is sufficient to complete this eligible activity.
- **Brownfield Plan/Work Plan Preparation and Implementation:** The cost for preparation of the Brownfield Plan, ACBRA's review, preparation of this Work Plan, and Brownfield Plan and/or Work Plan Implementation is included and is sufficient to complete this eligible activity.

iii. **Activities are Necessary to Complete Housing Development Activity**

Is each individual activity included in the work plan or combined brownfield plan required to complete the eligible housing development activity? Yes

In order for individual activities to be deemed to be required to complete the eligible housing development activity, they must be limited to those items detailed in the Development Cost Budget. All other activities will be deemed not required to complete the eligible housing development activity.

These plans and estimates are derived from previous experience by the developers, architects and engineers, legal advisors, and environmental consultants, such that the individual activities described in this plan are deemed required to complete the eligible activities. The following is a brief explanation of the need for each Eligible Activity:

- **Site Preparation:** grading, land balance, clearing and grubbing, and compaction are necessary to prepare the site for building and parking construction. Temporary facilities and site control are required to meet health and safety requirements.
- **Housing Financing Gap:** The cost of developing and operating housing is greater than rental revenue for households at or below 120% AMI. The inclusion of the Housing Financing Gap as an Eligible Activity for reimbursement is a critical element to the project financing. The project's \$1.9 million MSHDA grant is contingent on the award of TIF for the Housing Financing Gap. Both incentives are essential to rents at an affordable level for Antrim County's workforce. Without both incentives, rent revenues will need to be about \$400 per bedroom higher, an amount that is not feasible for many of Bellaire's year-round residents.
- **Brownfield Plan/Work Plan Preparation and Implementation:** The cost for preparation of the Brownfield Plan, ACBRA's review, preparation of the Work Plan, and Brownfield Plan and/or Work Plan Implementation are critical and statutorily required elements of project financing.

iv. **Cost for Eligible Housing Development Activity is Reasonable**

Is the cost for the eligible housing development activity reasonable? Yes

According to the PRL gap cap and the THS calculation (Appendix 3), the total PRL gap cap is \$38,311,200. The total tax increment revenues (TIR) available to the project over 30 years, as approved in the Bellaire Lofts Brownfield Plan, is \$9,985,533. The total PRL gap cap allowed by MSHDA, and total gap needed to develop affordable housing versus market rate housing, is significantly larger than the approved TIR. The approved TIR was determined to be reasonable by the ACBRA, Forest Home Township, the Village of Bellaire, and Antrim County.

v. Public Benefit

Is there an overall benefit to the public? Yes

The Bellaire Lofts project satisfies a housing need for the areas as determined by a current housing market study. This project serves an important public purpose in Antrim County, Forest Home Township, and the Village of Bellaire. It will result in significant capital investment into the community and, most importantly, create middle-income housing in a community where quality year-round housing for the local workforce is scarce. The county’s employment opportunities are growing, but they are impeded by housing availability. Filling some of that need will help Antrim’s employers fill jobs with qualified workers who can secure housing within easy commuting distance of their workplaces.

Housing North, the designated regional partner for northwest Lower Michigan, commissioned Bowne National Research to create a 10-county regional 2023 Housing Needs Assessment, which includes Antrim County. The Antrim County Housing Needs Assessment showed an overall housing gap of 1,771 units, with a gap of 321 rental units. The low-income and workforce (less than or equal to 120% of AMI) housing gap is particularly acute, with a gap of 294 rental units (91.6% of the total rental housing gap). Currently, about 13% of Antrim County’s households live in rented homes. The cost and supply of year-round rental housing are Antrim County’s primary housing issues.

- According to a 2023 study by Housing North, more than 36% of renters are housing cost-burdened (i.e., their rent exceeds 30% of their income). More than 14% of renters are severely cost-burdened and pay more than 50% of their income for housing. A summary of Housing North’s Housing Needs Assessment is presented in Appendix 4.
- Antrim County has the highest percentage of vacant housing units in Housing North’s 10-county region. The long-term rental vacancy rate in Antrim County is currently 0% according to Housing North—however, 42.8% of housing units are vacant, representing seasonal occupancy, short-term rentals, and abandoned housing units.
- Antrim County’s housing stock is aging, especially rental homes. Forty-two percent of Antrim’s rental units were built prior to 1970.

MSHDA’s Northwest Housing Partnership D includes Antrim County (Appendix 5). While MSHDA’s Partnership D Data Document does not address Bellaire’s housing needs specifically, Bellaire is typical of the second market group, the areas surrounding Traverse City. MSHDA states that in Housing Partnership D, “market vacancies declined sharply over the last five years, and rents have shot up as a result.” The Partnership D Data Document indicates a 0% vacancy rate for renters in its region. MSHDA’s gap numbers differ from Housing North’s, and since Housing North’s are specific to Antrim County, their housing-units-needed data has been used in the table below instead of MSHDA’s.

Rental Housing Units Needed by Area Median Household Income Level

50% AMI or below	51–80% AMI	81–120% AMI	121% or more AMI	Total number of units needed
114	114	66	27	321 (294 for AMI at or below 120%)

Housing North Housing Needs Assessment, 2023

vi. Reuse of Vacant Buildings

Is there reuse of vacant buildings and redevelopment of a blighted property? Yes

1. Is the vacant building being torn down or repurposed? Repurposed.
2. If the property is blighted, under what definition found in Section 2(c) is the property considered blighted? The property is not blighted. Not applicable.

3. **If blighted, is the acquisition cost to promote rehabilitation or adaptive reuse of the blighted or obsolete rental unit included in eligible activities?** Not applicable.

Acquisition cost: Not applicable.

Explain as applicable:

1. **Proposed reuse of or demolition of vacant buildings:** The existing vacant buildings will be repurposed as storage and a bike repair shop for the future residents. The Subject Property consists of one legal parcel occupying an approximately 19-acre former gravel pit currently occupied by two small utility buildings. Subject Building 1 (2,160 square feet) was constructed in 1996 with an addition in 2014, and Subject Building 2 (400 square feet) was constructed in 2004. The remaining portion of the property is currently vacant, consisting of undeveloped wooded land and a terraced hill/former gravel mine.
2. **Method used to determine that the property is blighted:** Not applicable. The property and buildings are not blighted.
3. **Is acquisition cost of blighted or obsolete property included as an eligible activity?** Not applicable.
4. **Is the property properly zoned or must it be rezoned?** The property was approved for a Planned Unit Development (PUD) by the Village of Bellaire Planning Commission on September 12, 2023.

vii. Job Creation

Are new jobs being created? No

The project includes only housing for households at or below 120% of AMI. However, creating housing for Bellaire's and Antrim County's workforce will allow local employers to fill jobs that have remained vacant due to our housing shortage.

viii. Unemployment

Is the eligible housing development in an area of high unemployment? No

The most recent reported unemployment rate for Antrim County (October 2023) is 4.4%, comparable to the State of Michigan's statewide rate of 4.2% at that same time, according to the Michigan DTMB Bureau of Labor Market Information and Strategic Initiatives, Local Area Unemployment Statistics (LAUS).

ix. Contamination Addressed by the Eligible Activities

A proposed housing development work plan must include an environmental review that meets MSHDA's Environmental Review Requirements found on MSHDA's website.

If the environmental review discloses that the proposed housing development site has environmental contamination, did EGLE provide clearance for residential development?

Environmental assessment activities were completed at the property. A Phase I ESA was completed in June of 2023. According to the Phase I ESA by AKT Peerless, one Recognized Environmental Condition (REC) was identified due to the historical operations of a fruit orchard from 1938 until approximately 1954. Lead arsenate pesticides, which are persistent within soils, were commonly applied to such orchards during this period.

Based on the identification of RECs, a Phase II ESA was recommended to determine if the RECs resulted in an environmental impact on the Subject Property. The Phase II ESA did not identify contamination, so no further investigation was warranted.

x. Private Sector Contribution

The Bellaire Lofts project represents \$17,000,000 of investment. A MSHDA grant constitutes \$1.9 million of that total. The balance is the developer's private contribution, a portion of which will come from bank financing.

The 1983 Company's financial capacity to undertake the project is included as Appendix 8.

xi. Relocation

Is the projected occupant of the new development moving from another location in this state? Unknown

The Antrim County Housing Needs Assessment showed an overall housing gap of 1,771 units, with a gap of 321 rental units. Low-income and workforce (less than or equal to 120% of AMI) housing gap is particularly acute, with a gap of 294 rental units (91.6% of the total rental housing gap). Currently, about 13% of Antrim County's households live in rented homes, and the long-term rental vacancy rate in Antrim County is 0%. New residents may live outside Bellaire or outside the county and relocate to be closer to their jobs. Others may be in temporary housing, such as short-term rentals or campgrounds, or in overcrowded homes.

Will the move create a brownfield? Unlikely but unknown

The Bellaire Lofts new development is anticipated to address the need for additional workforce housing in Antrim County. Relocation of residents to the project is not anticipated to create a brownfield.

xii. Developer Financial Soundness

Is the developer, landowner, or corporate entity that is included in the work plan or combined brownfield plan financially and economically unsound as determined by a review of the following requirements? No

1. **Is in default or material non-compliance with the LIHTC or any other MSHDA program.**
The Developer (The 1983 Company, LLC) is not in default or material non-compliance with the LIHTC or any other MSHDA Program.
2. **Has outstanding flags in HUD's 2530 National Participation system.**
The Developer (The 1983 Company, LLC) has no outstanding flags in HUD's 2530 National Participation system.
3. **Has been debarred or suspended from any MSHDA, HUD, or Rural Housing programs.**
The Developer (The 1983 Company, LLC) has not been debarred or suspended from any MSHDA, HUD, or Rural Housing program.
4. **Has outstanding tax liens.**
The Developer (The 1983 Company, LLC) has no outstanding tax liens.
5. **Does not have liquid assets at least equal to 3% of the proposed project housing development eligible activity costs.**
The Developer (The 1983 Company, LLC) does not have liquid assets at least equal to 3% of the proposed project housing development eligible activity costs.

xiii. Other State and Local Incentives

Are there other state and local incentives or subsidies available to the developer, landowner, or corporate entity for the housing development project that is included in the work plan or combined brownfield plan? Yes

1. **What are the sources, uses, and amounts of the other state and local incentives or subsidies provided?**
MSHDA Grant: \$1,900,000
2. **Are the other state and local incentives or subsidies firm commitments or contingent on some event?**
MSHDA Grant: Contingent on approval of Brownfield TIF.

3. Do the other state and local incentives or subsidies permit the housing development to serve lower-income households, seniors, the homeless, persons with disabilities, or other at-risk populations as may be deemed locally necessary based on housing reports or market studies?

Yes, the MSHDA grant award is expected to require income certification of at least 50% of the units at or below 65% AMI for a period of at least 15 years. The remaining units will be income certified at or below 120% AMI for the duration of the tax capture period under the brownfield development agreement.

xiv. Alignment with Statewide Housing Plan

Does the proposed housing development align with the statewide housing plan? Yes

The Statewide Housing Plan, released in 2022, shares a vision that “Michigan’s successful housing ecosystem provides safe, healthy, affordable, accessible, and attainable housing for all in a community of their choice.” The Statewide Housing Plan includes a series of Priorities, Goals, and Strategies for eight priority areas including equity and racial justice, housing ecosystem, preventing and ending homelessness, increasing the housing stock, older adult housing, rental housing, homeownership, and communication and education.

The Bellaire Lofts project aligns with the Vision, helps meet the Targets, and directly addresses the following Priorities:

- **Housing Stock:** Increasing the supply of affordable, accessible, attainable, and workforce housing. The Bellaire Lofts project will redevelop a vacant, underutilized 19-acre property into 50 townhomes, approximately 43,609 square feet of residential space, including two one-bedroom universal design units and 48 three-bedroom units, a total of 146 living spaces. All units are targeted for households of 120% AMI or less for the duration of Brownfield capture, 30 years. It is estimated that 72 one-bedroom suites will be for households of 55–60% AMI, two ADA one-bedroom suites will be for households of 100–120% of AMI, and 24 three-bedroom suites will be for households of 100–120% of AMI.
- **Rental Housing:** Reducing the number of people experiencing rent burden and increasing the quality of rental housing. The project will be all income-qualified rental units, an important need and market in the area.

xv. Capacity for Price and Income Monitoring

Under the terms of the Development and Reimbursement Agreement and as described above, The 1983 Company or a qualified rental management company retained by The 1983 Company will verify tenant incomes with MSHDA’s Household Income Self-Certification Form and will consult annual MSHDA Income and Rent Limits for Antrim County to ensure that rents are maintained at rates suitable for tenants below 100% of AMI for 25 units and below 120% of AMI for 77 units. The 1983 Company or its qualified management company will provide annual verification to the ACBRA. The 1983 Company does not have previous experience monitoring income-restricted housing units. If MSHDA training is available, Bellaire Lofts management and staff would take advantage of such training to ensure compliance with MSHDA monitoring process and procedures.

The ACBRA may opt to use its Brownfield Plan/Work Plan implementation budget from the project’s TIR to contract with an agency to monitor and verify price and income reported by The 1983 Company.

What is the duration of the price and income monitoring?

As rental properties, Bellaire Lofts rents and income monitoring will be in effect for the full 30 years of the Brownfield Plan.

xvi. Alignment with Local Workforce Housing Needs

Does the proposed housing development project support housing at price points that align with the local workforce based on localized area income and community data provided? Yes

The following are the current AMI estimates for Antrim County:

05/15/2023 MSHDA Income and Rent Limits

Rent By Bedroom (AMI)	1-Bedroom	3-Bedroom
55%	\$809	\$972
60%	\$883	\$1,224
70%	\$1,030	\$1,428
80%	\$1,178	\$1,633
100%	\$1,472	\$2,041
120%	\$1,767	\$2,449

Bellaire Lofts consists of 50 townhomes, including two one-bedroom ADA-compliant apartments and 48 three-bedroom/full-bath suite style townhomes. The total development includes up to 146 bedrooms: 144 bedroom/full-bath suites at \$825/month per suite and two one-bedroom ADA apartments with rents of \$1,625. An estimated 72 one-bedroom suites with shared kitchens with project rents of \$825 per suite will be rented to individuals, with a lease for each bedroom suite. An estimated eight townhomes (24 one-bedroom suites) with project rents of \$2,400 per townhome will be rented to households under one lease. Based on the project rents and the AMI calculation above, the rents will be targeted toward the following AMIs:

Bellaire Lofts Project Rents and AMI

Unit Description	Estimated No. of Units	Project Rent	Area Median Income (AMI)
One-bedroom suite	72	\$825	55–60%
One-bedroom ADA apartment	2	\$1,625	100–120%
Three-bedroom townhome	24	\$2,400	100–120%

Rents will remain consistent with annual income and rent limits for 30 years, the term of the approved Bellaire Lofts Brownfield Plan.

Local employers have stated in conversations with The 1983 Company both the need for housing for their workers at 60–120% of AMI and that rents are feasible for their workers. Housing North’s 2023 Housing Needs Assessment for Antrim County (refer to Appendix 4) verifies the need for housing in these categories and price ranges.

xvii. Deed Restriction for Term of Tax Capture

Is the proposed housing development to be income-restricted for a period not less than the period of tax capture by providing deed restrictions to ensure the development meets long-term local housing needs? Yes

If yes, do the terms of the draft deed restrictions match the proposed AMI levels to be served at the proposed housing development? Yes

**Antrim County Brownfield Redevelopment Authority
February 20, 2024**

SUBJECT: Development and Reimbursement Agreement – Bellaire Lofts

FROM: Mac McClelland

SUMMARY: Attached is the draft Development and Reimbursement Agreement for the Bellaire Lofts Brownfield project. The Agreement has been developed with the input of an Authority subcommittee of Garry Ellison, Tim Timmer, and Sherry Comben, with Janet Koch, Jeremy Scott and Mac McClelland. Following the subcommittee’s work, the Agreement was forwarded to the County attorney, who included some provisions and approved the form.

The Development and Reimbursement Agreement will now be sent to the Developers for their review. Because of many new provisions related to Housing Development Activities, there is anticipated to be some discussion and negotiation. Based on those discussions, the Agreement will be brought back to the Authority for final approval at your March 19, 2024 meeting.

RECOMMENDATION

Information.

DEVELOPMENT AND REIMBURSEMENT AGREEMENT

This Development and Reimbursement Agreement (the "**Agreement**") is made on _____, 2024, between Bellaire Lofts, LLC, a Michigan Limited Liability Corporation / 1983 Company, a Michigan S Corp, collectively (the "**Developer**") and the Antrim County Brownfield Redevelopment Authority (the "**ACBRA**"), a Michigan public body corporate organization.

PREMISES

- A. The Developer is engaged in the redevelopment of 6612 Bellaire Highway in Bellaire, Michigan which qualifies as Brownfield Eligible Property under Act 381, PA 1996, as amended, for a residential development (the "Development") for qualified households with income at or below 120% of the Area Median Income (AMI) more fully described in Exhibit A, with Brownfield Eligible Activities to be conducted on the Eligible Property described in the approved Brownfield Plan.
- B. The ACBRA has been formed pursuant to Act 381, Public Acts of Michigan, 1996, as amended ("Act 381") to promote the revitalization of contaminated, blighted, functionally obsolete, historically designated or housing properties.
- C. The ACBRA has determined in furtherance of its purposes and to accomplish its goals that it is in the best interest of the ACBRA to finance certain Eligible Activities as defined by Sec. 2(o) of Act 381, MCL 125.2652(o) on Eligible Property and as described in the approved Brownfield Plan and Act 381 Work Plan, as may be amended or supplemented.
- D. The Brownfield Plan was approved by the ACBRA on November 14, 2023 and by the Antrim County Board of Commissioners on December 6, 2023, with concurrence by the Bellaire Village Council on November 1, 2023 and the Forest Home Township Board on November 2, 2023.
- E. Pursuant to the Brownfield Plan and Act 381 Work Plan, the ACBRA will capture and retain one hundred percent (100%) of the tax increment revenues authorized by law to be captured from the levies imposed by taxing jurisdictions upon taxable property for the Eligible Property consistent with Act 381, as amended, the approved Brownfield Plan and any approved EGLE, MSF or MSHDA Act 381 Work Plan (the "Brownfield Tax Increment Revenues"). Upon satisfaction of the conditions expressed in this Agreement, the ACBRA will use the Brownfield Tax Increment Revenues to carry out the purposes described in Act 381 and this Agreement and to complete certain other activities described in the Brownfield Plan.

In consideration of the premises and the mutual covenants contained in this Agreement, the Developer and the ACBRA hereby enter into this Agreement and covenant and agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1 Definitions. The following capitalized terms used in this Agreement shall have the following meanings, except to the extent the context in which they are used requires otherwise:

- (a) "Act 381" means Act 381 of Michigan Public Acts of 1996, as amended.
- (b) "Act 381 Work Plan" means the work plan approved by the ACBRA and State of Michigan, and attached as Exhibit A, if applicable.
- (c) "Agreement" means this Development and Reimbursement Agreement entered into between the ACBRA and the Developer.
- (d) "AMI" means Area Median Income as published annually by MSHDA.
- (e) "Brownfield Plan" means the Brownfield Plan, approved by the ACBRA and the County Commission, with the concurrence of the Village Council and Township Board, pursuant to Act 381.
- (f) "Brownfield Tax Increment Revenues" means one hundred percent (100%) of the tax increment revenues, as defined by Act 381, from all taxable real property located on the Eligible Property for the period of time for the Eligible Activity obligation to be met or the maximum established by the Brownfield Plan from the first year of capture, anticipated to be 2025, whichever is first, which amount results from the increase in taxable value of the Eligible Property multiplied by those millages the ACBRA is legally permitted to capture.
- (g) "County" means Antrim County.
- (h) "County Board" means the Antrim County Board of Commissioners.
- (i) "Developer" means Bellaire Lofts, LLC and the 1983 Company, collectively. its successors and assigns.
- (j) "Development" means the construction of Bellaire Lofts, a residential development and certain appurtenant properties and improvements as described in the Brownfield Plan.
- (k) "ACBRA" means the Antrim County Brownfield Redevelopment Authority, established by the County Board.
- (l) "EGLE" means the Michigan Department of Environment, Great Lakes and Energy.
- (m) "Eligible Activities" are those environmental response, non-environmental and housing development activities eligible under the Act 381 and included in the approved Brownfield Plan and, if applicable, approved Act 381 Work Plan.

- (n) "Eligible Property" is the property described in the Brownfield Plan that meets Act 381 qualifying status as Eligible Property from which tax increment revenues will be captured to reimburse Eligible Activities and other costs, consistent with the Brownfield Plan, Act 381 Work Plan, and Act 381 as amended.
- (o) "Estimated Tax Increments" means 100% of the estimated annual tax increment revenues authorized by law to be captured from the levies imposed by taxing jurisdictions upon the Eligible Property through the duration of the Brownfield Plan until Eligible Activity and other obligations are met.
- (p) "Event of Default" means the failure by a party to carry out its obligations under this Agreement or, with respect to a party, if any representation or warranty of such party was materially not accurate when made, and such obligation has not been performed or such representation or warranty corrected within 45 days after notice thereof has been given by the other party.
- (q) "Housing Development Activities Financing Gap" (the "Financing Gap") is a MSHDA Eligible Activity defined in Act 381 in part as reimbursement provided to a developer to fill a financing gap associated with the development of housing units priced for Income Qualified households.
- (r) "" or "Income Qualifications" means household incomes at or below 120% of AMI.
- (s) "Indemnified Persons" means the ACBRA and the County and their elected and appointed officials, officers, agents, representatives and employees.
- (t) "MSF" means the Michigan Strategic Fund.
- (u) "MSHDA" means the Michigan State Housing Development Authority.
- (v) "Maximum Eligible Activity Cost" means the ACBRA's maximum obligation to pay for the Environmental, Non-Environmental and Housing Development Eligible Activities from Brownfield Tax Increment Revenues from the Development, as provided in the Brownfield Plan.
- (w) "Tax Increment Revenues" means one hundred percent (100%) of the incremental increase in revenues resulting from the Eligible Property's increased taxable value, multiplied by those millages the ACBRA is legally permitted to capture from the Eligible Property.
- (x) "Township" means Forest Home Township.
- (y) "Transaction Costs" means the ACBRA expenses, and liabilities related to the authorization, execution, administration, oversight, and fulfillment of the ACBRA obligations under this Agreement, the Brownfield Plan, and Act 381 Work Plan, which such items shall include, but not be limited to, direct or indirect fees and expenses incurred as a result of the application, approval and amendments to the Brownfield Plan and Act 381 Work Plan, approvals of the developments contemplated herein, printing costs, costs of reproducing documents, filing and recording fees, consulting and attorney

fees, financial expenses, insurance fees and expenses, administration and accounting for Brownfield Tax Increment Revenues, oversight and review, and all other costs, liabilities, or expenses, related to the preparation and carrying out or enforcing the Brownfield Plan, Act 381 Work Plan, and this Agreement, or other related agreements with the Developer, if any, and any other costs, charges, expenses, and professional and attorney fees in connection with the foregoing.

- (z) "Village" means the Village of Bellaire.

Section 1.2 Number and Gender. The definition of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun should include the corresponding masculine, feminine, and neuter forms.

ARTICLE 2

COVENANTS OF THE DEVELOPER AND THE ACBRA

Section 2.1 Construction of the Development. The Developer shall construct the Development in accordance with proper construction standards and this Agreement. The Developer shall proceed with due care and diligence and commence and complete Eligible Activities and the Development in accordance with this Agreement, and in accordance with any applicable law, regulation, code and ordinance.

Section 2.2 Covenant to Pay Financial Obligations. The Developer will utilize their own funds for the Development. The Developer will receive reimbursement from the ACBRA to the extent of available Brownfield Tax Increment Revenues for payment of the Eligible Activities in accordance with the terms of this Agreement, the Brownfield Plan, the Act 381 Work Plan and Act 381 for the Development. Reimbursement for Eligible Activities shall be prioritized as follows:

- (a) First, five (5) percent of local tax capture revenues will be applied to the administrative and operating costs and Transaction Costs of the ACBRA;
- (b) Second, 50% of the State Education Tax will be held for the State Brownfield Fund, in accordance with Section 13(b)(14) of Act 381.
- (c) Third, Brownfield Tax Increment Revenues will be used to reimburse approved Eligible Activities expenses pursuant to Section 5.1, the approved Brownfield Plan and approved Act 381 Work Plan to the Developer.

If the Development does not result in sufficient revenues to repay such obligations, the Developer agrees and understands that the Developer will have no claim or further recourse of any kind or nature against the ACBRA except from available captured tax revenues from the Development.

Section 2.3 Reimbursement Conditions: It is expressly understood and agreed that the reimbursement of the ACBRA is subject to the following conditions:

- (a) The Developer shall have performed all of the covenants, obligations, terms and conditions to be performed by them pursuant to this Agreement or other agreement with the ACBRA, and all preconditions to the performance of the Developer have been satisfied.
- (b) The ACBRA shall only be obligated to reimburse Eligible Activity Obligation that has been reviewed and approved by the ACBRA. Approval of the application, the Brownfield Plan, Act 381 Work Plans, or any other determination of eligibility in no way guarantees or establishes a right to reimbursement of expenditures through tax increment financing prior to review or approval of invoices. Expenditures must be documented to be reasonable for Eligible Activities by submission of invoices and other appropriate documentation. Reimbursement shall only occur pursuant to the terms and conditions of this Agreement, as well as the written policies and procedures of the ACBRA for review and approval of invoices. All invoices for any Eligible Activities on the property must be submitted to the ACBRA Director for review within 180 days from the date of the invoice. While the ACBRA may waive this requirement in its discretion for good cause shown, the ACBRA shall be under no obligation to reimburse any invoice for an Eligible Activity that is not submitted in a timely fashion.
- (c) The Developer has adhered to the approved Brownfield Plan and Act 381 Work Plan.
- (d) There are adequate Brownfield Tax Increment Revenues.
- (e) The Developer shall provide sworn written waivers of liens by consultants, contractors, and subcontractors providing services for Eligible Activities as described in this Agreement.
- (f) The Developer has provided the documentation required under Section 2.4.
- (g) The Developer has paid the real and personal property taxes levied on any portion of the Development for which the Developer is responsible on or before the date the same are payable without interest or penalty. Any appeal to real property tax assessment shall apply to the current tax year only.
- (h) For State tax capture and reimbursement, Act 381 Work Plans as applicable have been approved by the ACBRA and EGLE for Environmental Eligible Activities, MSF for Non-Environmental Eligible Activities, and/or MSHDA for Housing Development Activities.
- (i) Interest will not be accrued or reimbursed on any Eligible Activity expenses and obligations.
- (j) Project has received final full occupancy permit.

Section 2.4 Income, Rent Documentation and Reporting

- (a) The Developer shall monitor and annually provide to the ACBRA that all units are occupied by households or individuals that meet income requirements and that the rents being charged on an annual basis are no more than 30 percent of household income of 120% AMI, consistent with MSHDA requirements for the Missing Middle Program.

- (b) Households must prove eligibility at the time of initial occupancy by self-certifying using the MSDHA Household Income Self-Certification Form or as otherwise approved by MSHDA.
- (c) The Developer shall provide to the ACBRA Director no later than June 15 of each year as part of the Act 381 reporting requirements under MCL 125.2666(7,9) a report of the following:
 - 1. Total Investment
 - 2. Square Footage Completed
 - 3. New Jobs Created
 - 4. Number of housing units produced
 - 5. Number of income qualified purchaser households served.
 - 6. Number of income qualified renting households assisted.
 - 7. Housing unit rental rates or prices at which the housing units were sold.
 - 8. Racial and socioeconomic data on the individuals purchasing or renting the housing units, or, if this data is not available, racial and socioeconomic data on the census tract in which the housing units are located.
- (d) The Developer shall provide an initial budget for the project and provide a report on actual expense to the ACBRA Director by March 31 each year with line items including but not limited to:
 - 1. Capital Costs
 - i. Acquisition
 - ii. Infrastructure
 - iii. Earthwork / Site Improvements / Utilities
 - iv. New Construction
 - v. Professional Fees
 - vi. Transaction Costs
 - vii. Other Costs (specify)
 - viii. Debt Service. defined as net operating income plus depreciation plus interest divided by the required annual debt payment for the Developer.
 - 2. Operating Costs
 - i. Administrative Expenses
 - ii. Utilities
 - iii. Maintenance
 - iv. Taxes
 - v. Insurance

vi. Maintenance Reserve

3. Rent Revenues

The cost and revenue information will determine the annual Housing Financing Gap.

Section 2.5 Five Year Review and Evaluation

- (a) Five years after the first certificate of occupancy is issued, the ACBRA will initiate and review any evaluation of project capital and operating costs, financing, debt obligations, rent revenues, Brownfield revenues, measured with economic benchmarks described in Exhibit B.
- (b) The Developer agrees to full disclosure of all project information as requested and required by the ACBRA.
- (c) Based on the results of the evaluation, if benchmarks in Exhibit B are exceeded, rents may be lowered, or the Brownfield Plan can be amended at the sole discretion of the ACBRA with approval by the County Board and concurrence by the Village and Township to reduce Brownfield Tax Increment Revenues or reduce the Brownfield capture period.

Section 2.6 Prohibition of Short-Term Rentals

- (a) In accordance with Section 15(12)(m)(iv), no short-term rentals are allowed in any of the residential units. Leases shall be no less than 30 days.
- (b) The Developer agrees to include notice of the short-term rental prohibition in any lease and is responsible for monitoring compliance with this provision.

Section 2.7 Indemnification of Indemnified Persons.

- (a) The Developer shall be considered independent contractors and not agents or employees of the ACBRA or the County. Nor shall any agent or employee of the Developer be considered an agent or employee of the ACBRA or the County. The Developer shall remain responsible for any claims arising out of acts or omissions of the Developer during the performance of this Agreement, as provided by law. Additionally, the Developer and ACBRA shall not be considered engaged in a joint venture or partnership.
- (b) The Developer shall indemnify, defend and hold the Indemnified Persons harmless from any loss, expense (including actual attorney fees) or liability of any nature due to any and all suits, actions, legal or administrative proceedings, or claims arising or resulting from injuries to persons or property as a result of the ownership or operation, use or maintenance of their respective components of the Development from and after the date hereof. If any suit, action or proceeding related to the Development is brought against any Indemnified Person, the Indemnified Person promptly shall give notice to the Developer and the Developer shall defend such Indemnified Person with counsel reasonably satisfactory to the Indemnified Person. In any such proceeding, the

Indemnified Person shall cooperate with the Developer and the Developer shall have the right to settle, compromise, pay or defend against any such claim on behalf of such Indemnified Person, except that the Developer may not settle or compromise any claim if the effect of doing so would be to subject the Indemnified Person to any penalty or limitation, unless such Indemnified Person gives its consent. The Developer shall not be liable for payment or settlement of any such claim or proceeding made without its consent.

- (c) The Developer shall not be obligated to indemnify any Indemnified Person under subsection (b) if the liability arises out of the Indemnified Person's negligence, willful misconduct or breach of this Agreement or the negligence or willful misconduct of any person or entity acting by, through or under any Indemnified Person.
- (d) The Developer also shall indemnify the Indemnified Persons for all reasonable costs and expenses, including actual attorney fees, incurred in enforcing any obligation of the Developer under this Agreement or any related agreement.
- (e) The Developer shall use its reasonable best efforts to assure that, to the extent an Environmental Consultant provides services toward completion of Eligible Activities, at a minimum, the Environmental Consultant shall indemnify, defend, and hold Indemnified Persons harmless from any loss, expense (including actual attorney fees) or liability of any nature due to any and all suits, actions, legal or administrative proceedings, or claims arising or resulting from injuries to persons or property as a result of the actions or services of the Environmental Consultant.
- (f) This indemnification includes any loss, expense (including actual attorney fees), or liability in excess of that covered by any insurance of the Developer and shall survive the termination or expiration of this Agreement. By entering into this Agreement, the parties do not waive any immunities provided by law.

Section 2.8 Eligible Property Access. The Developer shall grant to the ACBRA or its designated agents, access to the Eligible Property to exercise the ACBRA's right to administer or oversee Eligible Activities related to the purposes and pursuant to the terms of this Agreement. The ACBRA shall give 24-hour written notice of its intent to access the Site whenever possible. If notice cannot be given due to an emergency or any other unforeseen circumstance, the ACBRA shall give notice as is reasonable and practicable under the circumstances.

Section 2.9 Separate Covenants and Obligations. Except as expressly provided in Section 2.3, the covenants and obligations of the Developer are separate covenants solely running to and enforceable by the ACBRA, EGLE, MSF and/or MSHDA as provided by law, and to no other party, person, or entity. Unless otherwise expressly provided in this Agreement, a breach or default by the Developer of its obligations to the ACBRA shall not constitute a breach or default of this Agreement or bar enforcement or claims by the other parties. No third-party beneficiary rights, interests, or claims are created by implied contract, operation of law, or any other means.

ARTICLE 3
CONDITIONS PRECEDENT TO OBLIGATIONS OF THE
DEVELOPER AND THE ACBRA

Section 3.1 Conditions Precedent to Obligations of the Developer to Acquire and Construct the Development. Any obligation of the Developer to acquire and construct the Development, as contemplated herein, are subject to the following conditions precedent which must be satisfied by the Developer, as required herein, or waived in writing by ACBRA, except as specifically provided herein:

- (a) No condition, event, action, suit, proceeding or investigation is occurring or threatened to occur, or shall be pending before any court, public board or body to which the Developer, County, or ACBRA is a party, or threatened against the Developer, County, or ACBRA contesting the validity or binding effect of this Agreement or the validity of the Brownfield Plan or Act 381 Work Plan or which could result in an adverse decision which would have one (1) or more of the following effects:
 - (1) A material adverse effect upon the ability of the ACBRA to collect and use Brownfield Tax Increment Revenues to repay its obligations under this Agreement.
 - (2) A material adverse effect on the ability of the Developer or ACBRA to comply with the obligations and terms of this Agreement, the Brownfield Plan, or Act 381 Work Plan.
- (b) There shall have been no Event of Default by the Developer and ACBRA and no action or inaction by the ACBRA which eventually with the passage of time could become an Event of Default.
- (c) The Developer and ACBRA shall be in compliance with the terms and conditions to be performed by them pursuant to this Agreement.
- (d) Approval of the Act 381 Work Plan as applicable by EGLE for Environmental Eligible Activities, MSF for Non-Environmental Eligible Activities and/or MSHDA for Housing Development Activities.
- (e) The Developer has received the consent of any affected utility for relocation, burial or other activity necessary to construct their respective portions of the Development.
- (f) There has been no change in statutes or other law that would negatively impact either party's ability to meet (a)-(e) above.
- (g) The Parties acknowledge that the Developer has made an advance payment to the ACBRA in the amount of \$10,000 to cover its expenses attributable to approval of the Application/Work Plan, Development and Reimbursement Agreement, and reimbursement for Eligible Activities as provided herein. The Developer shall make an additional advance payment of \$7,500 prior to approval of this agreement by the ACBRA. This payment will be a pre-approved reimbursable Eligible Activity cost. The

ACBRA may request additional payment from the Developer adequate to cover its expenses attributable to new or amended Brownfield Plans, Act 381 Work Plans, Development and Reimbursement Agreements, or other new or amended documents or approvals requested by the Developer.

ARTICLE 4 **COVENANTS OF THE ACBRA**

Section 4.1 Adoption of Brownfield Plan. The ACBRA and County Board have approved the Brownfield Plan, with the concurrence of the Village Council and Township Board, and, if applicable, the ACBRA has approved Act 381 Work Plan(s), which provides for the payment of ACBRA Administrative and Transaction Costs and the preparation and approval of the Brownfield Plan and Act 381 Work Plan, and reimbursement for the Developer Eligible Activities expenses that have been conducted, completed and approved in accordance with the scope and terms of this Agreement, the Brownfield Plan, and Act 381 Work Plan.

Section 4.2 Completion of Eligible Activities. Upon the satisfactory completion of any Eligible Activities and satisfactory documentation of Eligible Activity costs and documentation of payment to Contractors by the Developer as described in the approved Brownfield Plan and Act 381 Work Plan, as applicable, the ACBRA shall, to the extent Brownfield Tax Increment Revenues are available, reimburse the Developer in accordance with the terms set forth in this Agreement. If the Developer incurs any expenses or costs for any activities other than the Eligible Activities or the Eligible Activity costs exceed the Maximum Costs of Eligible Activities as set forth in the Brownfield Plan, as amended or supplemented, the Developer shall bear such costs without any obligation on the part of the ACBRA. If the costs of Eligible Activities set forth in the Brownfield Plan, as amended or supplemented, are less than Maximum Costs of Eligible Activities, then the Developer shall have no further right of reimbursement beyond their actual costs.

Section 4.3 ACBRA or Contract Manager Oversight. The ACBRA may retain the services of a qualified contract manager to exercise oversight of the Developer and their environmental consultant, contractors, or subcontractors, for the purposes of assuring that the activities, invoices, and accounting by the Developer are fair, reasonable, and constitute Eligible Activities within the meaning and scope of this Agreement, the Brownfield Plan, the Act 381 Work Plan(s), and Act 381. The Developer shall provide the ACBRA and its contract manager access to data, reports, sampling results, invoices, and related documents reasonably necessary to fulfill the exercise of such oversight. It is expressly understood that the ACBRA has no right to control or to exercise any control over the actual services or performance by the Developer of the Eligible Activities, except as to assurance that the Developer have met the conditions and requirements of this Agreement.

Section 4.4 Financial Considerations Between the Parties. Pursuant to MSHDA requirements, the Development and Reimbursement Agreement must include a detailed summary of any and all ownership interests, monetary considerations, fees, revenues, cost sharing, charges, or other financial arrangements or other consideration between the parties. The summary is attached as Exhibit B.

By signature of this Agreement, the parties verify that there are no ownership interests, monetary considerations, fees, revenues, cost sharing, charges, or other financial arrangements or other consideration between the parties other than those described in Exhibit C.

ARTICLE 5
CONDITIONS PRECEDENT TO ACBRA OBLIGATIONS

Section 5.1 Conditions Precedent to ACBRA's Reimbursement Obligation for Eligible Activities. The obligations of the ACBRA for reimbursements of costs to the Developer for completion of Eligible Activities expenses as contemplated herein shall be subject to the following conditions precedent which must be satisfied by the Developer as required herein, except as expressly provided in this Agreement or otherwise waived in writing by the ACBRA. It is expressly agreed that the ACBRA makes or gives no assurance of payment to the Developer by the mere fact that an Eligible Activity or a dollar amount for such activity is identified in the Brownfield Plan and/or Act 381 Work Plan, or as hereafter supplemented or amended, and that it shall have the right to review all written summaries of Eligible Activities and approve or deny invoices for Eligible Activities based upon the reasonableness of services performed by any consultant, contractor, or subcontractor under this Agreement. However, so long as an Eligible Activity by the Developer has been approved and is authorized by Act 381 and has been completed and approved in accordance with the following procedure and this Agreement and to the extent Brownfield Tax Increment Revenues are available, the Developer shall be entitled to reimbursement for its Eligible Activities expenses. The approval of the Brownfield Plan, Act 381 Work Plan, or the project budget described below is not a guarantee that there will be sufficient Brownfield Tax Increment Revenues to reimburse the Eligible Activities, and if for any reason, the revenues are insufficient or there are none, the Developer assumes full responsibility for any such loss or cost of any Eligible Activity conducted.

(a) The Developer will provide the following documentation:

1. Commitment to Lend from financial institution(s)
2. Proof of Ownership
3. MSHDA Missing Middle Grant Agreement
4. Sworn Statements, including partial or full waivers of lien, as submitted and approved for payment and Title company endorsement.
5. Progress reports of project completion, based on lead financial institution requirements.
6. First Certificate of Occupancy
7. Final Certificate of Occupancy, if applicable
8. Other documentation as required.
9. Insurance Certifications

- (b) The Developer shall submit invoices of its Eligible Activities expenses and a written statement demonstrating a factual basis that it has completed the Eligible Activities to the ACBRA for preliminary review and approval within 180 days of completion of the Eligible Activity. Submission of a request for reimbursement by the Developer for their Eligible Activity expenses will include the following information in a format provided by the ACBRA:
1. a written statement detailing the Eligible Activity costs.
 2. a written explanation as to why reimbursement is appropriate under the Brownfield Plan.
 3. Copies of invoices from the consultants, contractors, engineers, attorneys or others who provided such services and accompanying waivers of lien, cancelled checks or other forms of documentation of payment; and
 4. A statement from the engineer or project manager overseeing the work on behalf of the Developer recommending payment.

Documentation of the costs incurred shall be provided including proof of payment, liens waivers, and detailed invoices for the costs incurred in sufficient detail to determine whether the costs incurred were for Eligible Activities. The ACBRA shall not be required to reimburse any request that is not submitted within 180 days after the expense is incurred.

- (c) Within 60 days after submittal of an invoice or invoices under (b) above, the ACBRA contract manager or Director shall review and approve or reject the reasonableness of the invoice(s) and activity as eligible or ineligible and, if recommended, shall present the invoice(s) to the ACBRA for approval. In the event of an objection, the ACBRA contract manager will notify the Developer within the 60-day time period, and the Developer shall meet to resolve or cure the objection. If the objection is not resolved or cured within 45 days, there is no obligation to pay the portion of the invoice(s) objected to until the parties have mutually agreed in writing through an alternative dispute mediation or there is a final judgment or order of a court of competent jurisdiction directing payment. It is expressly agreed that the ACBRA does not make or give any assurance of payment to the Developer by the mere fact that an Eligible Activity or a dollar amount for such activity is identified in the Brownfield Plan or Act 381 Work Plan and that the ACBRA shall have the right to review and approve or deny reimbursement for any invoices for Eligible Activities based on the reasonableness of services performed by any consultant or contractor under this Agreement.
- (d) Payment for approved invoices from Brownfield Tax Increment Revenues from the Development will be made annually no later than June 15.
- (e) No condition, event, action, suit, proceeding or investigation is occurring or threatened to occur, or shall be pending before any court, public board or body to which the Developer, County, or ACBRA is a party, or threatened against the Developer, County, or ACBRA contesting the validity or binding effect of this Agreement or the validity of the

Brownfield Plan or which could result in an adverse decision which would have one (1) or more of the following effects:

1. A material adverse effect upon the ability of the ACBRA to collect and use Brownfield Tax Increment Revenues to repay its obligations under this Agreement.
 2. A material adverse effect on the ability of the Developer or ACBRA to comply with the obligations and terms of this Agreement, the Brownfield Plan, or the Act 381 Work Plan.
 3. There shall have been no Event of Default by the ACBRA and no action or inaction by the ACBRA which eventually with the passage of time could become an Event of Default.
- (f) The Developer and ACBRA shall have performed all of the terms and conditions to be performed by them pursuant to this Agreement.
- (g) Approval of the Act 381 Work Plan as applicable by EGLE for Environmental Eligible Activities, MSF for Non-Environmental Eligible Activities and/or MSHDA for Housing Development Activities.
- (h) Proper approvals required under applicable federal and state laws or regulations, and local ordinances, codes or regulations for land use and the Development have been secured.
- (i) No violation of local ordinances.
- (j) There has been no change in statutes or other law that would have one or more of the effects described in (e) above.
- (k) The Developer has received the consent of any affected utility for relocation, burial or other activity necessary to construct their respective portions of the Development.
- (l) The Developer shall have performed all of the terms and conditions to be performed by it.

ARTICLE 6.

DEVELOPER'S ENVIRONMENTAL CONSULTANT, CONTRACTOR, OR SUBCONTRACTOR RESPONSIBILITIES

Section 6.1 ASTM and Industry Standards. To the extent that an Environmental Consultant or other contractors or subcontractors provide services toward completion of Eligible Activities, the Environmental Consultant, contractors or subcontractors, shall perform all services and Eligible Activities under this Agreement in accordance with any applicable ASTM or other industry standards.

Section 6.2 Other Services Performed for Developer. It is expressly understood that ACBRA

is not responsible for payment or reimbursement of any services for or expenses incurred by the Environmental Consultant, contractors and/or Developer that are not within the scope of or in accordance with all of the terms, conditions and provisions of this Agreement. This Agreement shall not be deemed or construed to create any rights to reimbursement or otherwise in the Environmental Consultant, contractors, subcontractors, or any third parties; specifically, this Agreement shall not be construed to create any third-party beneficiary contract or claim.

Section 6.3 Other Agreements. The Developer covenants that they will obtain a warranty from the Environmental Consultant, contractors and subcontractors that it is not a party to any other existing or previous agreement which would adversely affect the Consultant's, the contractor's and/or subcontractor's ability to perform the services with respect to the Eligible Activities.

Section 6.4 Contractors. If the Developer hires any Environmental Consultant, contractor and/or subcontractor, or retains any person, firm or corporation to perform services related to Eligible Activities under this Agreement, the Developer shall first secure the written acknowledgment from such party that such party is not and shall not be or act as an agent or employee of the ACBRA nor assume or create any duty, commitment or obligation on behalf of nor bind the ACBRA in any respect whatsoever. A copy of such written acknowledgment shall be provided to ACBRA.

Section 6.5 Independent Contractor. The Environmental Consultant and any contractors and/or subcontractors shall perform its services under this Agreement entirely as an independent contractor, and shall not be deemed an agent, employee or legal representative of the ACBRA. The ACBRA and the Environmental Consultant and any contractor and/or subcontractor shall each have and maintain complete control over all its employees, agents and operators. Facts or knowledge of which the Environmental Consultant, contractor or subcontractor becomes aware shall not be imputed to the ACBRA without communication to and receipt by managerial officials or employees of the ACBRA. The Environmental Consultant or any contractor and/or subcontractor has no authority to assume or create, and will not assume or create any commitment or obligation on behalf of the ACBRA in any respect whatsoever. Further, the Environmental Consultant or any contractor and/or subcontractor shall exercise its independent judgment for the services provided in this Agreement.

Section 6.6 Disposal of Hazardous Waste. In the event that samples or other materials contain substances classified as "hazardous waste" under state or federal law ("Hazardous Waste"), the Developer or their agent shall, under a manifest signed by the Developer, their agent, or a third party as the generator, have such samples transported for final disposal to a facility licensed to accept Hazardous Waste. It is expressly understood that the ACBRA does not have any oversight or other control or authority over disposal of Hazardous Waste under the terms of this paragraph.

Section 6.7 Compliance With Laws. While on the Eligible Property, the Developer, the Environmental Consultant, and any contractor and/or subcontractor shall impose work orders on its employees, agents and subcontractors which are designed to assure that they comply with all applicable federal, state and local laws and regulations (including occupational safety and environmental protection statutes and regulations) in performing services under this Agreement, and shall comply with any directions of governmental agencies relating to site safety, security, traffic or other like matters, but limited to only those Eligible Activities performed by Developer's

Environmental Consultant, contractors or subcontractors, and specifically excludes all other activities performed by other environmental consultants, contractors, or subcontractor performing activities.

Section 6.8 Contractor Insurance. The Developer shall assure that the Environmental Consultant and any contractors and/or subcontractors performing any part of the Eligible Activities covered by this Agreement shall obtain and maintain the policies of insurance in the types and amount provided in Section 8.1.

ARTICLE 7 **REPRESENTATIONS AND WARRANTIES**

Section 7.1 Representations and Warranties of ACBRA. ACBRA represents and warrants to the Developer that:

- (a) ACBRA is a public body corporate, established pursuant to Act 381, with all necessary corporate powers pursuant to that Act to enter into and perform this Agreement.
- (b) The execution and delivery of this Agreement has been duly authorized by all requisite action on the part of the ACBRA, and this Agreement constitutes a valid and binding agreement of the ACBRA enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors' rights generally, now existing or hereafter enacted, and by the application of general principles of equity, including those relating to equitable subordination.
- (c) Neither the execution nor delivery of this Agreement nor the consummation of the transactions contemplated hereby is in violation of any provision of any existing law or regulation, order or decree of any court or governmental entity, or any agreement to which the ACBRA is a party or by which the ACBRA is bound.

Section 7.2 Representations and Warranties of the Developer. The Developer represents and warrants to the ACBRA that:

- (a) The Developer (i) are duly organized and validly existing as a Michigan corporation, limited liability company, or a 501(c)(3) non-profit organization in good standing under the laws of the State of Michigan, with power under the laws of such state to carry on their business as now being conducted; (ii) are duly qualified to do business in the State of Michigan, and (iii) have the power and authority to consummate the transactions contemplated under this Agreement by the Developer.
- (b) There is no material violation or default by the Developer of any provision of their Articles of Organization or Operating Agreement, or under any indenture, contract, mortgage, lien, agreement, lease, loan agreement, note, order, judgment, decree or other instrument of any kind or character to which they are a party and by which they are bound, or to which they or any of their assets are subject, and compliance with the

terms, conditions and provisions of this Agreement does not conflict with and will not result in or constitute a breach of or default under any of the foregoing, wherein default, breach or violation would materially and adversely affect any of the transactions contemplated by or the validity of this Agreement.

- (c) The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite action on the part of the Developer and this Agreement constitutes a valid and binding agreement of the Developer in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors' rights generally, now existing or hereafter enacted, and by the application of general principles of equity, including those relating to equitable subordination.
- (d) Except as a part of the performance and completion of Eligible Activities under the terms of this Agreement, the Developer and their contractors or subcontractors shall not use the Site for the storage, treatment or disposal of hazardous or toxic wastes of unaffiliated third parties and shall comply with all applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees and orders in connection with any use of the Site, and shall obtain all necessary permits in connection therewith.
- (e) The Developer warrants that they will comply with all obligations, covenants and conditions required of them or their agents or contractors under the terms of this Agreement.

ARTICLE 8 **INSURANCE**

Section 8.1 Insurance. The Developer and any contractor(s) or subcontractor(s) conducting Eligible Activities shall purchase and maintain insurance not less than the limits set forth below as applicable and necessary. The Developer and any contractor(s) and subcontractor(s) shall maintain such other insurances as they deem appropriate for their own protection and liabilities.

- (a) Worker's Disability Compensation Insurance including Employers Liability Coverage in accordance with all applicable statutes of the State of Michigan.
- (b) Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit. Coverage shall include the following: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Endorsement or Equivalent.
- (c) Motor Vehicle Liability Insurance, including Michigan No-Fault Coverage, with limits of liability of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles.
- (d) Contractor's Pollution Liability Insurance provided by Contractors, sub-contractors and site work contractors engaging in environmental response activities, covering any sudden and non-sudden pollution or environmental impairment, including cleanup costs

and defense, with limits of liability of not less than \$1,000,000 per occurrence (with first party and third-party coverage).

Section 8.2 Cancellation Notice. It is understood and agreed that thirty (30) days advanced written notice of cancellation, non-renewal, reduction and/or material change to any insurance policy specified above shall be sent to the ACBRA.

Section 8.3 Additional Insured. The Commercial General Liability Insurance, Motor Vehicle Liability Insurance, Professional Liability Insurance, and Pollution Liability Insurance, as described above, held by the Developer, and their Environmental Consultant and contractors, as appropriate shall have an endorsement including the Antrim County Brownfield Redevelopment Authority and Antrim County as additional insured. It is understood and agreed by naming the ACBRA and County as additional insured, coverage afforded is considered to be primary and any other insurance the ACBRA or County may have in effect shall be considered secondary and/or in excess.

Section 8.4. Proof of Insurance. The Developer or any contractor or subcontractor shall furnish copies of certificates of insurance for each of the policies mentioned above to the ACBRA.

ARTICLE 9 **REMEDIES AND TERMINATION**

Section 9.1 Alternative Dispute Mediation. If a dispute arises between the parties to this Agreement, the parties shall seek an alternative means of resolving the dispute as a condition precedent to litigation. Therefore, the parties agree to the following terms and conditions:

- (a) The party bringing in a claim shall give notice to the other party and, in writing, propose a meeting in which to discuss and attempt to resolve the claim within seven (7) days after the claim arises.
- (b) In the event the meeting between the parties to resolve the claim does not resolve the dispute or does not take place within said seven (7) day period, the parties shall designate, by mutual agreement, an independent mediator who shall convene a meeting of the parties within a period of twenty-one (21) days after the initial meeting between the parties. The mediator shall render his/her decision within ten (10) days of meeting with the parties. In the event that the mediator does not render a decision within said time period, the party bringing the claim shall have the right to proceed with litigation.
- (c) The purpose of the mediator is to attempt to resolve the dispute between the parties. The mediator shall not be empowered with the authority to render a binding opinion or award.
- (d) During the pendency of this alternative dispute resolution process, the parties agree that any statute of limitations applicable to all claims that are the subject of this mediation process shall be tolled.

Section 9.2 Remedies for Default. The ACBRA or the non-defaulting party will provide notice to the defaulting party of the nature and extent of the default. The defaulting party will have 45 days to remedy the default.

Section 9.3 Remedies upon Default. Upon the occurrence of an Event of Default which has not been remedied under Section 8.1 or Section 8.2, the non-defaulting party shall have the right to terminate this Agreement with the defaulting party or, at the election of such non-defaulting party, may obtain any form of relief permitted under the applicable laws and court rules of the State of Michigan, including the right to seek and obtain a decree of specific performance by a court of competent jurisdiction.

ARTICLE 10 **MISCELLANEOUS**

Section 10.1 Term. The term of this Agreement shall commence on the date first written above and shall expire upon payment in full of ACBRA's obligations under this Agreement or thirty (30) years from the first year of capture, estimated to begin 2024, whichever is first, or pursuant to the terms of the Brownfield Plan or Act 381 Work Plan and Act 381.

Section 10.2 Sale or Transfer of Eligible Property or Site within the Plan. The Developer waives the right to reimbursement for outstanding Eligible Activity expense obligations, or any other reimbursement obligation of the ACBRA, to be paid through Brownfield Tax Increment Revenues captured from the portion of the Eligible Property that is sold, conveyed, transferred, or assigned unless the Developer complies with the following:

(a) The Developer provides the prospective transferee with written notice of the Brownfield Plan, the nature and extent of Eligible Activities performed by the Developer pursuant to the Plan, and the extent of any outstanding obligation for reimbursement for Eligible Activity expenses from taxes to be captured from the Eligible Property.

(b) The Developer and the transferee enter into an allocation agreement covering how the Brownfield Tax Increment Revenues collected on the Eligible Property shall be distributed between the Developer and the prospective purchaser or transferee for any outstanding obligations or future obligations for Eligible Activities on the Eligible Property.

(c) The Developer provides the ACBRA with copies of the written notice and the allocation agreement between the Developer and the transferee of the Eligible Property prior to transfer of the Eligible Property, and the ACBRA approves the agreement, which shall not be unreasonably denied.

Section 10.3 Assignment of this Agreement. No party to this Agreement may transfer, assign or delegate to any other person or entity all or any part of its rights or obligations arising under this Agreement, including the right to reimbursement from Brownfield Tax Increment Revenue, without the prior written consent of all other parties hereto, which consent will not be unreasonably withheld.

Section 10.4 Notices. All notices, certificates or communications required by this Agreement to be given shall be in writing and shall be deemed delivered when personally served, or when received if mailed by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective parties as follows:

If to ACBRA: Jeremy Scott, County Administrator
 Antrim County
 203 E. Cayuga Street, P.O. Box 187
 Bellaire, Michigan 49615

If to Developer: Derek Coppas, Principal
 Bellaire Lofts, LLC
 452 Ada Drive, SE Suite 220
 Ada, Michigan 49301

or to such other address and/or representative as such party may specify by appropriate notice.

Section 10.5 Amendment and Waiver. No amendment or modification to or of this Agreement shall be binding upon any party hereto until such amendment or modification is reduced to writing and executed by all parties hereto. No waiver of any term of this Agreement shall be binding upon any party until such waiver is reduced to writing, executed by the party to be charged with such waiver, and delivered to the other parties hereto.

Section 10.6 Entire Agreement. This Agreement contains all agreements between the parties. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the parties, except to the extent reference is made thereto in this Agreement.

Section 10.7 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

Section 10.8 Captions. The captions and headings in this Agreement are for convenience only and in no way limit, define or describe the scope or intent of any provision of this Agreement.

Section 10.9 Governing Laws/Consent to Jurisdiction and Venue. This Contract shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Contract shall be brought in the 13th Judicial Circuit Court of the State of Michigan, the 86th District of the State of Michigan, or the United States District Court for the Western District of Michigan, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.

Section 10.10 Mutual Cooperation. Each party to this Agreement shall take all actions required of it by the terms of this Agreement as expeditiously as possible and shall cooperate to the fullest extent possible with the other parties to this Agreement and with any individual entity or governmental agency involved in or with jurisdiction over the engineering, design, construction or operation of the Development, or any other improvements which are undertaken in connection with the foregoing, in the granting and obtaining of all easements, rights of way, permits, licenses, approvals and any other permissions necessary for the construction or operation thereof. Each party to this Agreement shall execute and deliver all documents necessary to accomplish the purposes and intent of this Agreement including, but not limited to,

such documents or agreements as may be required by the lenders of the Developer with respect to the Development to secure the financing from such lenders. Each party to this Agreement also shall use its best efforts to assist the other parties to this Agreement in the discharge of their respective obligations hereunder and to assure that all conditions precedent to the completion of the Development are timely satisfied.

Section 10.11 Binding Effect. This Agreement shall be binding upon the parties hereto and upon their respective successors and assigns.

Section 10.12 Brokerage Fees. The ACBRA and the Developer represent and warrant to the others that no broker or finder has been engaged in connection with this Agreement. The ACBRA, without waiving any governmental immunity and to the extent allowed by law, and Developer shall indemnify each other and hold each other harmless from and of any and all liability (including reasonable attorneys' fees and costs) for brokerage commissions or finders' fees in connection with this Agreement to the extent such liability or claim is based on any arrangement or agreement made or claimed to have been made by or on behalf of the indemnifying party.

Section 10.13 Condominium Documents. The Developer agrees to put notice of this Agreement in any condominium Master Deed, if a condominium project is developed on this land.

Section 10.14 Order of Precedence. In the event of conflict between the terms and conditions of this Agreement, any attachments hereto and Act 381, the order of precedence shall be: (a) Act 381; (b) this Agreement; (c) Brownfield Plan; and (d) Act 381 Work Plan.

The ACBRA and the Developer have caused this Agreement to be duly executed and delivered as of the date first written above.

Bellaire Lofts, LLC

By: Derek Coppas
Its: Principal

APPROVED AS TO SUBSTANCE:

ANTRIM COUNTY BROWNFIELD
REDEVELOPMENT AUTHORITY

By: Jeremy Scott
County Administrator

By: Rachel Krino
Its: Chair

EXHIBIT A: THE DEVELOPMENT

Bellaire Lofts, LLC, a limited liability corporation formed by the 1983 Company, has acquired property at 6612 Bellaire Highway in Bellaire to develop 50 townhomes with a total of 138 suites for qualified households or individuals with incomes no greater than 120% Area Median Income (AMI). The total investment is estimated at over \$17 million.

(Site Plan)

(Renderings)

There are extraordinary development costs that impact the economic viability of the project, including the gap between project capital and operation costs and rent revenue for residential units for households with income no greater than 120% of Area Median Income (AMI).

The project has been awarded a MSHDA Missing Middle Grant of \$___ million.

The Development will have a restriction that meets Michigan State Housing Development Authority standards, and that runs with the land for a period of 30 years, limiting the rental of the Units to no greater than 30 percent of 120% AMI for qualified households or individuals.

Estimated development timeline:

- Groundbreaking: January 2024
- Foundations: Spring 2024
- First Building Completion: Summer 2024
- Site Complete: Fall 2024

EXHIBIT B: FIVE YEAR FINANCIAL REVIEW AND EVALUATION

Brownfield Plan Resolutions approved by the ACBRA and County Board, with the concurrence of the Village Council and Township Board included a requirement to review Brownfield TIF revenues, project income and expenses, and rental rates in five years after the date of the first certificate of occupancy.

The purpose is to review the project capital expenses, debt obligations, operating costs, rental revenues and Brownfield TIF revenues, measured against benchmarks for project economic viability.

The Developers have provided a pro forma in the format developed by the Michigan Economic Development Corporation (MEDC) dated November 16, 2023. Financial information required below as part of the 5-year evaluation shall be submitted in the MEDC pro forma format, with original documentation.

The following provides the framework for the Financial Review and Evaluation.

- Developer Information:
 - Construction Cost – the Developer will provide the final closeout documents for construction contracts as well as other engineering or professional construction services expenses.
 - Operating Cost – a 3-year detail of all project operating costs, including but not limited to maintenance, janitorial, repairs.
 - Utilities – 3-year detail of electricity, water, sewer, natural gas, cable/internet
 - Administrative – 3-year detail of management fees, payroll, overhead, legal/accounting.
 - Insurance
 - Reserve Requirements based on financial institution but no less than 2%.
 - Debt Service – Disclosure of terms and conditions of project financing.

- Benchmarks – the following benchmarks are established for economic viability of the project.

Debt Service Coverage Ratio:	1.2 (or as required by lender)
Internal Rate of Return:	9%
Cash on Cash Return:	9%
Return on Owner Equity:	8%

- Evaluation Outcomes:
 - If the Evaluation determines the project is meeting the Benchmarks, no adjustment will be considered.
 - If the Evaluation determines the project exceeds the Benchmarks, the following adjustments will be considered:
 - Rents may be lower to reduce revenue and bring the project back to the Benchmarks.
 - The Brownfield Plan may be amended under the procedures in Act 381 to either reduce the annual reimbursement or reduce the term of capture.

EXHIBIT C: FINANCIAL CONSIDERATIONS BETWEEN THE PARTIES

Monetary consideration, fee, revenue, cost sharing, charge, or other financial arrangement or consideration	Amount	Parties	Description
Brownfield Plan for Brownfield TIF	Actual costs up to \$3,325,533	Developer	Approved by the ACBRA and County Board, with the concurrence of the Village and Township, and will be submitted to the State of Michigan for approval of an Act 381 Work Plan to authorize capture of the school operating and State education tax.
Brownfield Plan for Brownfield TIF	The Developer will be reimbursed for \$15,000 paid to the ACBRA for processing and approval of the Brownfield Plan, Act 381 Work Plan, and other documents associated with the project. The ACBRA will collect approximately \$290,000 for administrative fees and \$50,000 for brownfield plan implementation.	ACBRA	The ACBRA was paid by the Developer for its review consultant, for which the Developer will be reimbursed as an Eligible Activity. The ACBRA will be reimbursed from the Brownfield Plan / Act 381 Work Plan for plan implementation and administration.
State Brownfield Fund	Estimated \$505,216	State of Michigan	The State of Michigan collects a fee equivalent to 3 tax mills for approval of an Act 381 Work Plan.
MSHDA Missing Middle Grant	\$X,000,000	MSHDA	Missing Middle Grant awarded by MSHDA to support workforce housing.