

Memo

Date: June 13, 2017

To: Allouez Village Board

From: Brad Lange

Re: Wisconsin Ready for Reuse Program

The Wisconsin Ready for Reuse Program Hazardous Substance Loan is a zero interest loan available to local units of government and non-profits to help clean up environmental contamination at brownfield sites. Staff has been in discussion with AECOM, who is writing the WEDC (Wisconsin Economic Development Corporation) grant for us and can assist in completing this application at no cost to the village. If we should be successful in securing the loan, we would need to contract with AECOM to complete the Analysis of Brownfield Cleanup Alternatives for the Zambaldi Brewery Project, the Community Relations Plan, Public Notice Regarding Environmental Cleanup Wisconsin Ready for Reuse Program, and the Quality Assurance/ Quality Control Program all of which are requirements for the program. I am attaching additional information regarding the program, which I hope will answer any additional questions.

It is staff recommendation to proceed with the application and should we be successful in obtaining the loan, contract with AECOM for the required programs associated with the loan at a cost not to exceed \$15,000. The environmental consulting fees to complete the work are eligible under the loan as well as any public participation costs.

Thank you for your consideration.



Wisconsin Ready for Reuse Program Hazardous Substance Loans & Grants

RR-753

February 2017

Ready for Reuse is a Wisconsin Department of Natural Resources (DNR) program that offers grant and loans to local governments and non-profits to help clean up environmental contamination at brownfields.

The DNR receives funding for this program through U. S. Environmental Protection Agency (EPA) Revolving Loan Fund grants.

Hazardous Substance Funding

Loan and grant funds can be used for eligible costs incurred during the grant or loan agreement period for cleanup of contamination from hazardous substances or hazardous substances commingled with petroleum.

Funds may not be used for expenses that are eligible for reimbursement through the Petroleum Environmental Cleanup Fund Act (PECFA) or the Agricultural Chemical Cleanup Program (ACCP).

The total amount of available hazardous substance funding changes frequently. For current information, check the Ready for Reuse web page at: dnr.wi.gov, search "Ready for Reuse".

Loans

All loans are zero-interest and are generally awarded for projects that require amounts of \$250,000 or more. Loan amounts are subject to available funding.

Grants

The maximum grant amount is \$200,000 per site. Grants will be awarded to projects that can be completed in two years. Grant applicants must own the property.

Financial Requirements

Loan and grant applicants must provide a minimum of 22 percent of the requested funds as a match contribution. Other state or local (but not federal) grants may be used as match, provided that the grant and loan periods overlap, the grants are for eligible cleanup activities and those activities will be incurred during the same time period.



Wisconsin Department of Natural Resources
P.O. Box 7921, Madison, WI 53707
dnr.wi.gov, search "Brownfields"



Required Criteria

In order to be eligible for hazardous substance funding through the Ready for Reuse Program and receive priority funding, all the following criteria must be met:

- The site must meet the federal definition of an “eligible brownfield site.”
- Grants: The applicant must be an eligible governmental entity, tribe (or other eligible tribal entity) or an eligible non-profit organization.
Loans: The applicant must be an eligible governmental entity.
- If applying for a grant, the applicant must own the site.
- The applicant must have no CERCLA (i.e. Superfund) liability for the site.
- Cleanup is for hazardous substance contamination only (or for hazardous substances co-mingled with petroleum products, where the hazardous substances are the main contaminants of concern).
- The ch. NR 716 Site Investigation, Wis. Admin. Code, for the site is complete, and has been at least submitted to the DNR, if not approved.
- The applicant has secured financing in place to complete the cleanup and redevelopment.
- A municipal resolution authorizing the governmental entity to apply for and receive Ready for Reuse funding has been passed (not applicable to non-profits).
- A borrower or grantee is prepared and able to complete quarterly tracking forms for the Ready for Reuse Program, in order to meet federal and state reporting requirements.

Eligible Sites

The site must meet the federal definition of an eligible brownfield, which is “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.” For more information on sites that need property-specific determinations, or sites that are never eligible for brownfields funding, visit Ready for Reuse web pages.

Eligible Applicants

Grants

The following entities are eligible to apply for Reuse for Reuse grants:

- general purpose unit of local government, including the following:
 - county, city, town, or village;
 - redevelopment authority under s. 66.1333, Wis. Stats.;
 - community development authority under s. 66.1335, Wis. Stats.;

- housing authority under s. 66.1201, Wis. Stats.; and
- any local public authority (including any public and Indian housing agency under the United States Housing Act of 1937), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government;
- tribe, or other eligible tribal entity under 40 CFR 31.3; and
- non-profit organization (for the purposes of the brownfields grant program, the term “nonprofit organization” means any corporation, trust, association, cooperative, or other organization that is operated mainly for scientific, educational, service, charitable, or similar purpose in the public interest; is not organized primarily for profit; and uses net proceeds to maintain, improve, or expand the operation of the organization; nonprofit organizations exempt from taxation under Section 501(c)(4) of the Internal Revenue Code that lobby are not eligible for EPA grant funding).

Loans

Only a “municipality,” as defined in s. 67.01(5), Wis. Stats., may apply for a Ready for Reuse loan.

Municipal Obligations for Loans

In order to be approved for a Ready for Reuse loan, a municipality must agree to issue an obligation authorized under one of the following provisions of Chapter 67 of the Wisconsin Statutes as security for the Ready for Reuse loan:

1. **A general obligation Promissory Note issued under s. 67.12.(12), Wis. Stats.**
2. **A Note Anticipation Note issued under s. 67.12(1)(b)2, Wis. Stats.** which provides as follows:
 - Any municipality may issue municipal obligations in anticipation of receiving proceeds from brownfields revolving loan program loans or grants under the program described in s. 292.72 if the municipality has received written notification from the department of natural resources that the department intends to distribute such proceeds to the municipality. The obligation shall be repaid within 10 years after the original date of the obligation, except that the obligation may be refunded one or more times. Any refundings shall be repaid within 20 years after the original date of the original obligation.
3. **Any other municipal obligation authorized under ch. 67, Wis. Stats.**

Applicant Liability

The applicant cannot have liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). For more information about CERCLA liability defenses, visit the Ready for Reuse Program web pages at dnr.wi.gov, search “Ready for Reuse”.

- The applicant may not have caused the contamination; and
- The applicant must demonstrate that they have no CERCLA (i.e. Superfund) liability by making one or more of the following defenses.
 - **Bona Fide Prospective Purchaser Defense (BFPP)** – for property acquired after January 11, 2002, where proper environmental due diligence was conducted in accordance with the All

Appropriate Inquiry (AAI) standard in effect at the time; there is no affiliation with the liable party; and the specified continuing obligations (e.g., compliance with a land use control) are met. See the following two RR Program web pages for additional information:

- **BFPP:** dnr.wi.gov, search “BFPP”; and
- **AAI:** dnr.wi.gov, search “All Appropriate Inquiry”.
- **Involuntary Acquisition or Transfer Defense** – for property involuntarily acquired by or transferred to a governmental agency, such as through tax delinquency, escheat, foreclosure, abandonment, condemnation, or slum clearance or blight determinations. This defense is generally available only to governmental entities. See the following RR Program web page for more information:
 - **Liability Tools for Local Governments:**
dnr.wi.gov, search “Local Government Brownfields”.
- **Standard Practice for Due Diligence** – for property acquired prior to January 11, 2002. This defense is used when the applicant can demonstrate that the level of environmental due diligence conducted prior to acquisition was “standard practice” at that time. The standard for sites purchased in the last several years is a Phase 1 Environmental Site Assessment conducted in accordance with American Society for Testing and Materials (ASTM) guideline that was in effect at the time the assessment was conducted.

Eligible Activities

The following eligible costs can be paid for only during the DNR-approved loan or grant period.

- **Cleanup actions.** Includes actions associated with removing, mitigating or preventing the release or threat of a release of a hazardous substance, pollutant, contaminant or controlled substance into the environment (e.g. air, land or water).
- **Preparation/Finalization of the Remedial Action Plan.**
- **Demolition or Site Preparation.** Only if necessary to implement a remedial action plan (RAP), and only if the demolition is required to access contaminated soils beneath a structure. Demolition must be pre-approved by the DNR and EPA.
- **Asbestos Abatement or Lead Mitigation Costs.** Only if a necessary component of a pre-approved demolition.
- **Short-term Site Monitoring.** Includes reasonable and necessary sampling and analysis during the cleanup process and determining the final effectiveness of the cleanup.
- **Environmental Consulting Fees.** Includes only those fees necessary to implement the cleanup.
- **Public Participation Costs.** Includes any costs associated with meeting community involvement requirements, worker health and safety activities and interagency coordination.
- **DNR Fees.** Includes fees for the review of cleanup plans and activities, including fees for the Voluntary Party Liability Exemption (VPLE), under chs. NR 749 or 750, Wis. Admin. Code.

Please Note: All eligible activities must be conducted starting *AFTER* the recipient signs a financial agreement with DNR and receives official approval from DNR to begin work. In some situations, DNR and EPA may give pre-authorization for certain activities to take place. Work closely with the DNR on the timing of any project-related activities.

Ineligible Activities

- Site Investigation and Phase I or II environmental assessments.
- Cleanup of petroleum contamination (unless commingled with hazardous substances).
- Demolition (and associated asbestos abatement or removal) that is not necessary to access the contaminated area in order to conduct the cleanup activities.
- Administrative costs, such as appraisal costs, meals, meeting costs, application costs and contingencies.
- Acquisition or relocation costs.
- Development costs that are not remedial activities.
- Public improvements or infrastructure costs.
- Expenses imposed by other regulatory programs (e.g. site erosion control plans, stormwater management, etc.) that are not related to the cleanup.
- Cost of compliance with any federal law, excluding compliance with laws applicable to the cleanup.
- Legal fees.

Restrictions on Demolition and Asbestos Abatement

Funds from the Ready for Reuse program may only be used by a Grantee or Borrower for demolition activities that are necessary to implement a remedial action plan and only if the demolition is required to access contaminated soils beneath a structure. Asbestos abatement activities may be eligible for funding when asbestos removal is a necessary component of a pre-approved demolition. Notify the Department immediately to re-verify eligibility if the remedy requiring demolition changes during the design/implementation phase. All demolition and asbestos abatement activities must be pre-approved by DNR and EPA.

Applications

There is no deadline to apply for Ready for Reuse funding. However, it is highly recommended that you meet with DNR staff prior to submitting an application. Use Ready for Reuse - Hazardous Substance Loan and Grant Application (Form 4400-238) to apply. Contact Gena Larson (608-261-5404, gena.larson@wisconsin.gov) to discuss your project.

Contact Information

Contact Gena Larson at 608-261-5404 or gena.larson@wisconsin.gov with any questions about the Ready for Reuse program.

This document contains information about certain state statutes and administrative rules but does not necessarily include all of the details found in the statutes and rules. Readers should consult the actual language of the statutes and rules to answer specific questions. The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240. This publication is available in alternative format upon request. Please call 608-267-3543 for more information.

