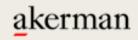
# Across the Southeast - Key Incentives in State Brownfield & Voluntary Cleanup Programs



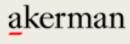






### Presented by:

- FLORIDA: Jason Lichtstein (Akerman LLP)
- GEORGIA/ALABAMA: Russ Griebel (United Consulting)
- MISSISSIPPI: Trey Hess (PPM Consultants)









## Key Incentives in State Brownfield & Voluntary Cleanup Programs

Florida Perspective



## Florida's Key Brownfield Financial Incentives

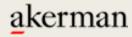
- Florida's Brownfield program in place since 1997 More than 20 years
- Approx. \$3.36 billion projected in capital investment in Brownfield areas
- Approx. 86,360 direct and indirect jobs created (confirmed & projected) in Brownfield areas since 1997
- Florida's Voluntary Cleanup Tax Credit (VCTC)
- Florida Sales Tax Refund for Building Materials
- Florida Brownfield Job Bonus Refund



### Voluntary Cleanup Tax Credit (VCTC)

- Threshold eligibility: Brownfield sites in designated Brownfield areas (designated by local governments) under Brownfield Site Rehabilitation Agreements (BSRAs) with FDEP or local delegated Brownfield programs
- 50% VCTC credit against state corporate income tax
- \$10 million authorized per year

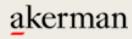
- Available as to "costs of voluntary cleanup activity that is integral to site rehabilitation," including eligible environmental assessment, monitoring, and cleanup work & costs per FDEP; solid waste costs - separate VCTC eligibility
- Max. annual site rehab VCTC cap -\$500,000 award per site/per year
- VCTC bonuses (25%) are available for affordable housing and health care facilities and following NFA issuance – Maximum \$500,000 per bonus/per site



### Voluntary Cleanup Tax Credit (VCTC)

- VCTC is available for both unconditional and conditional closure sites
- One-time (1X) transferability of VCTC tax credit certificate
- VCTC tax credit is good for 5 years;
   VCTC transferee has 5 years after
   transfer date to use VCTC credit

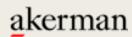
- Building mitigation costs are generally not VCTC eligible (no asbestos or lead-based paint mitigation)
- Per FDEP, vapor mitigation system costs are not VCTC eligible
- Related legal fees & costs are eligible
- Engineering & institutional controls are VCTC eligible



### Sales Tax Refund Building Materials

- Threshold eligibility: Sites with BSRAs or sites that are abutting/adjacent to BSRA sites in designated Brownfield areas
- 100% refund as to state sales taxes paid for building/construction materials

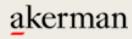
- Available for affordable housing and mixed-use developments (conversion of existing manufacturing or industrial building into mixed-use units)
- Must apply to State of Florida within6 months of substantial completion
- No statutory cap/limit on amount of sales tax refund, but subject to appropriations



#### Brownfield Job Bonus

- Threshold eligibility: Sites with BSRAs or sites that are abutting/adjacent to BSRA sites in designated Brownfield areas
- Be a Qualified Target Industry (QTI) business or requires capital investment by an eligible business of at least \$2 million. Create at least 10 new permanent jobs.

- Eligible jobs do not include jobs relating to site construction or site environmental cleanup
- State cash refund up to \$2,500 per new job
- Enter into agreement with State of Florida governing job creation and bonus payment schedule; generally pays within 4 or 5 years
- Annual claim procedure
- Subject to appropriations



## Florida Economic Incentives; By the Numbers

- Brownfield act enacted in 1997
- VCTC statute enacted in 1998
- Since program inception, over 530 sites have been designated as Brownfield areas
- Since program inception, 420 BSRAs executed
- According to FDEP's annual Brownfield program report (dated August 2021)
- FDEP has approved approx. \$136.8 million in VCTC tax credits since program inception

#### akerman

## Key Incentives in State Brownfield & Voluntary Cleanup Programs

Georgia Perspective



## Georgia Brownfields The Tax Incentive

- Georgia BF Purchaser performs
   Corrective Action on Site
- Records investigation and cleanup / compliance costs
- Costs are submitted to EPD for review
- Once certified, purchaser can submit cost certification to local taxing authority

- Tax authority "freezes" the assessed property value; tax savings result when the actual value of the property increases
- Freeze lasts up to ten years unless cleanup costs are recovered sooner
- Can stack with other incentives (ex. historic tax credit) and does not expire



## Georgia Brownfields Eligible Costs

#### **Eligible Costs**

- "Eligible brownfield costs" means costs incurred after July 1, 2003, and directly related to the receipt of a limitation of liability pursuant to Article 9 of Chapter 8 of Title 12, the "Brownfield Act," as amended, that are not ineligible costs.
- Examples: Environmental due diligence;
   Asbestos Removal; caps and other institutional controls; costs to apply to BF program; soil removal and clean fill

#### **Ineligible Costs**

- Equipment
- Supplies not purchased specifically for obtaining a limitation of liability
- Employee salaries/Legal expenses;
- Other expenses not directly related to the receipt of LOL
- 3<sup>rd</sup> Party Claims
- Construction costs
- Maintenance of Institutional Control



## GA Economic Incentives; By the Numbers

- Brownfield Act enacted in 2003
- Since the program inception, 1,235 properties (sites) have enrolled into the Program
- 144 cost recovery packages certified by EPD:
  - \$95,858,293.76



## Key Incentives in State Brownfield & Voluntary Cleanup Programs

Mississippi Perspective



### MS Economic Redevelopment Act MERA Key Features

- Private Sector Incentive
- Tax Rebate for a single project
- All state taxes (sales, income, and franchise taxes) will be rebated to the developer for fifteen years or 2½ times the cleanup costs, whichever is less
- Effective 7-1-13, it was expanded to include brownfield sites subject to a brownfield agreement with MDEQ

- MDEQ fees eligible (\$2000 & \$100/hr.);
- Asbestos abatement is eligible;
- Demolition (when asbestos is present) is eligible;
- Recycling of building materials is eligible;
- UST Removals are eligible;
- No maximum amount;
- MDEQ reviews estimated costs on front end;
- Actual cost invoices to MDA on back end;
- Rebate is not transferrable;
- §57-91-1 of Mississippi Code



#### MS Economic Redevelopment Act Brownfields Incentives Act (BIA) Key Features

- Private Sector Incentive
- 25% STATE Income Tax CREDIT
- For tax year costs incurred
- Remediation costs for assessment, investigation, remediation, monitoring, and related activities at a brownfield agreement site.
- Credit is the lesser of \$40K or actual income tax imposed.

- Unused portion may be carried forward to succeeding tax years;
- Max. total credit over life of project- \$150K.
- MDEQ fees eligible (\$2000 & \$100/hr.);
- Assessment Costs are eligible (after joining Brownfield Program);
- Asbestos abatement is eligible;
- Demolition (when asbestos is present) is eligible;
- Recycling of building materials is eligible;
- UST Removals are eligible;
- Simple 1-page application to MDEQ;
- Simple certification letter from MDEQ;
- Credit is not transferrable;
- §27-7-22.16 of Mississippi Code



## MS Economic Incentives; By the Numbers

- Brownfield Act enacted in 1998;
  - Brownfield Tax CREDIT (1998);
- Mississippi Economic Redevelopment Act (2013);
- Since the program inception, 38 properties (sites) have enrolled into the Program;
- Sites that have taken advantage of Brownfield Incentives:
  - ~ 4 Brownfield Tax Credits
  - 5 MERA Rebates ~ \$6.1M in Rebates (actual and projected)



## Key Incentives in State Brownfield & Voluntary Cleanup Programs

Alabama Perspective



## Brownfield Development Tax Abatement Act (Chapter 9C, Title 40, Code of Alabama 1975)

- Gives cities and counties the ability to abate the following:
  - Non-educational city and county sales and use taxes
  - Non-educational state, city and county property taxes up to 20 years
  - Mortgage and recording taxes.
- To receive an abatement for any or all of these taxes, a business must meet certain qualifications and follow certain procedures, as determined by law and regulation.



## Statutory Requirements For Brownfield Abatements

- The property must be in the Alabama Department of Environmental Management's voluntary cleanup program to qualify for brownfield abatements.
- Capital Investment Requirement
  - New Company
  - There is no threshold or limiting investment amount for a new brownfield abatement project. The total amount of the capital investment by a company that is locating in Alabama is eligible for the tax abatements.
- Major Addition
  - The additional capital investment by a company that is expanding their current facilities on brownfield development property must equal the lesser of:
    - 30 percent of the original cost of the property as cleaned up **or** \$2,000,000.



## AL Economic Incentives; By the Numbers

- VCP enacted in 2002
- Since the program inception, 506 properties (sites) have enrolled into the Program
- 15 sites have used the tax incentive:
  - \$1,056,798-sales&use
  - \$11,193,220-property
  - \$43,650-mortgage&recording



#### EXAMPLE RE-DEVELOPMENT

#### **Redevelopment Details**

Project is a mixed-use redevelopment, siting on 5-acres consolidated from 4 separate parcels. Total construction schedule was 25 months.

350 multifamily units (50 affordable units & 300 market rate units), 20,000 SF retail, and 10,000 SF office

#### Environmental Conditions

- Historically included a dry cleaning plant, metals recycling facility, and residential property
- Environmental assessments identified soil and groundwater contamination
- Property was enrolled in the State Brownfield program
- Soil remediation was needed, along with a vapor intrusion mitigation system below the new buildings

#### Project Costs and Retail Revenue

- Land value at time of purchase = \$2M
- Overall development valuation = \$125M (includes retail and office)
- Total environmental fees including consulting (\$290K), asbestos abatement (\$100K), State Brownfield fees (\$10K), soil disposal (\$1.2M), and vapor mitigation (\$200K) = \$1.8M
- Total estimated retail sales tax generation = \$400K/annually
- Jobs created = 200 (including apartment leasing and maintenance, retail, and office)

#### Florida Brownfield Incentives

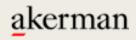
- Florida VCTC Tax Credit: Core environmental costs & fees are eligible
- But not VCTC eligible Vapor mitigation (\$200,000), asbestos abatement (\$100,000) & program fees (\$10,000) = \$310,000
- Florida VCTC Tax Credit: \$1.8M \$310,000 (not VCTC eligible) = \$1.49M

- VCTC (Projected) Recovery = \$1.49M x 50% = \$745,000.
- Plus VCTC NFA Bonus: \$1.8M x 25% = \$372,500.
- Potential portion of VCTC affordable housing bonus
- Based on 25 months of work (over 2 years), but without application of annual VCTC cap.

#### Florida Brownfield Incentives

- Florida Sales Tax Refund for Building Materials:
  - Project may be eligible;
  - Check whether there is 20% set aside of square footage for low-income and/or moderate-income housing. For purposes here, assume potential \$300,000

- Florida Brownfield Job Bonus:
- 150-200 eligible jobs created x \$2,500 = \$375,000-\$500,000



### Georgia Brownfield Incentives

- In 2018, site purchased for appraised value of \$2 M and tax liability of \$50,000/ annually.
- Purchaser applied to the Georgia Brownfield Program and remediated soil, installed vapor mitigation system, certifying \$1.8M
- In 2019, City assesses new value to be = \$125M with a tax liability of \$500,000/year.



### Georgia Brownfield Incentives

Year	2019	2020	2021	2022	2023	2024
Value	2 M	125 M → 2M	2 M	2 M	2 M	125 M
Tax Bill	50,000	500,000 → 50,000 (450,000)	50,000 (450,000)	50,000 (450,000)	50,000 (450,000)	500,000
BF Costs	1.8 M	1.35 M	900,000	450,000	0	N/A



### Mississippi Brownfield Incentives

#### **MERA Sales Tax Rebate**

- Max Rebate \$4.5M (2.5 x \$1.8M)
- Rebate Schedule:
  - \$400K/Yr. Years 1-6
  - \$320K Yr. 7 (80% of Actual Annual Sales Tax)
  - \$280K Yr. 8 (70%)
  - \$240K Yr. 9 (60%)
  - \$200K/Yr. Yrs. 10-15 (50%)
- Actual Rebate \$4.44M at Yr. 15

## BIA Tax Credit (STATE Income Tax)

Max Credit -\$40,000/Year (\$150K Max)



#### Alabama Brownfield Incentives

- Property Tax Abatement
  - City of Birmingham has 3.57 mills for non ed ad valorem tax. So,  $$125M \times 20\% \times .0357 = $892,500$
- Sales and Use Taxes
  - Hard construction costs x 40% (40% is typical amount for materials) x 9%. So, if hard cost is \$10M = \$360,000
- Mortgage Recording Tax
  - \$125M x 65% (assumed mortgage for loan) to arrive at amount of mortgage.
     Mortgage tax is \$0.15 per 100 in value. = \$121,875
- Thank you to Brian Wolfe with Corporate Realty for assisting with this example

### Overview

	FL	GA	MS	AL
Program Inception	'97/98	'03	'13	'02
Total Sites	420	1235	38	506
Sites w Cost Recovery	TBD	144	5	15
Incentives to Date	\$136M	\$95M	\$6.1M (projected)	\$12M
Example Redevelopment	\$1.8M	\$1.8M	\$4.4M	\$1.4M







### Across the Southeast - Key Incentives in State Brownfield & Voluntary Cleanup Programs

### **QUESTIONS**



