FLORIDA’S BROWNFIELDS REDEVELOPMENT PROGRAM

Brownfields 101

6th Annual Northwest Florida Brownfields Redevelopment Forum

Carrie L. Kruchell, P.G., Scott Sweeney, Justin Cross, Megan Johnson, and Jason Lichtstein, Esq.

June 14, 2018
What are Brownfields?

- **Brownfield site** means real property, the expansion, redevelopment or reuse of which may be complicated by *actual or perceived* environmental contamination.

Section 376.79(3) Florida Statutes
What is a Brownfield Area?

- **Brownfield Area** means a contiguous area of one or more brownfield sites (*some of which may not be contaminated*), and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and EPA-designated brownfield pilot projects.

Section 376.79(4) Florida Statutes
Florida’s Brownfields Redevelopment Program Benefits

Florida’s Program helps to promote:

- Economic development
- Community development
- Residential projects
- Open-Space/ Green-Space projects

and

- Reduction of public health and environmental hazards
- Removal of stigma
- Effective use of community resources
Who are the “Brownfields” people at DEP and how are they organized?
The Program is managed by DEP staff in Tallahassee who act as liaisons between Brownfield Coordinators in the six (6) DEP Districts across the State as well as the three (3) designated local program counties (Broward, Miami-Dade, and Hillsborough).
# Department Brownfields Contacts

<table>
<thead>
<tr>
<th>Brownfield Program Manager</th>
<th>Voluntary Cleanup Tax Credit Program Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carrie L. Kruchell, P.G.</td>
<td>Scott L. Sweeney</td>
</tr>
<tr>
<td>(850) 245-8765</td>
<td>(850) 245-8958</td>
</tr>
<tr>
<td><a href="mailto:Carrie.L.Kruchell@dep.state.fl.us">Carrie.L.Kruchell@dep.state.fl.us</a></td>
<td><a href="mailto:Scott.L.Sweeney@dep.state.fl.us">Scott.L.Sweeney@dep.state.fl.us</a></td>
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</tbody>
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<table>
<thead>
<tr>
<th>DEP District Brownfield Coordinators</th>
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<tbody>
<tr>
<td>Northwest District, Pensacola</td>
<td>South District, Ft. Myers</td>
</tr>
<tr>
<td>Sally Cooey, P.G.</td>
<td>Patricia Goense</td>
</tr>
<tr>
<td>(850) 595-0558</td>
<td>(239) 344-5608</td>
</tr>
<tr>
<td><a href="mailto:Sally.Cooey@dep.state.fl.us">Sally.Cooey@dep.state.fl.us</a></td>
<td><a href="mailto:Patricia.Goense@dep.state.fl.us">Patricia.Goense@dep.state.fl.us</a></td>
</tr>
<tr>
<td>Northeast District, Jacksonville</td>
<td>Southwest District, Tampa</td>
</tr>
<tr>
<td>Darrin McKeehen, P.G.</td>
<td>Yanisa Angulo, P.E.</td>
</tr>
<tr>
<td>(904) 256-1545</td>
<td>(813) 470-5757</td>
</tr>
<tr>
<td><a href="mailto:Darrin.McKeehen@dep.state.fl.us">Darrin.McKeehen@dep.state.fl.us</a></td>
<td><a href="mailto:Yanisa.Angulo@dep.state.fl.us">Yanisa.Angulo@dep.state.fl.us</a></td>
</tr>
<tr>
<td>Central District, Orlando</td>
<td>Southeast District, West Palm Beach</td>
</tr>
<tr>
<td>Kim Rush, P.E.</td>
<td>Diane Pupa</td>
</tr>
<tr>
<td>(407) 897-4314</td>
<td>(561) 681-6782</td>
</tr>
<tr>
<td><a href="mailto:Kim.Rush@dep.state.fl.us">Kim.Rush@dep.state.fl.us</a></td>
<td><a href="mailto:Diane.Pupa@dep.state.fl.us">Diane.Pupa@dep.state.fl.us</a></td>
</tr>
</tbody>
</table>
## Designated Local Program Contacts

<table>
<thead>
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<th>Local Program Brownfield Coordinators</th>
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<tbody>
<tr>
<td><strong>David Vanlandingham, P.E.</strong></td>
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<tr>
<td>Broward County</td>
</tr>
<tr>
<td>(954) 519-1478</td>
</tr>
<tr>
<td><a href="mailto:dvanlandingham@broward.org">dvanlandingham@broward.org</a></td>
</tr>
<tr>
<td><strong>Allison Amram, P.G.</strong></td>
</tr>
<tr>
<td>Hillsborough County</td>
</tr>
<tr>
<td>(813) 627-2600, ext. 1294</td>
</tr>
<tr>
<td><a href="mailto:amrama@epchc.org">amrama@epchc.org</a></td>
</tr>
<tr>
<td><strong>Sandra Rezola</strong></td>
</tr>
<tr>
<td>Miami-Dade County</td>
</tr>
<tr>
<td>(305) 372-6700</td>
</tr>
<tr>
<td><a href="mailto:sandra.rezola@miamidade.gov">sandra.rezola@miamidade.gov</a></td>
</tr>
</tbody>
</table>
Which other agencies can help?
| JOB BONUS REFUND | Enterprise Florida, Inc.  
Orlando Headquarters (407) 956-5696  
[www.enterpriseflorida.com](http://www.enterpriseflorida.com) |
|------------------|------------------------------------------------------------------|
| LOAN GUARANTEE   | Department of Economic Opportunity  
Maureen Smith (850) 717-8978  
[maureen.smith@deo.myflorida.com](mailto:maureen.smith@deo.myflorida.com) |
| SALES TAX REFUND | Department of Revenue  
Andrea Hunter (850) 717-7773  
[andrea.hunter@floridarevenue.com](mailto:andrea.hunter@floridarevenue.com) |
What is the Brownfields Process in Florida?
Florida’s Brownfields Process

1. **Brownfield Area Designation**
   - By Local Government

2. **Identification of PRFBSR**

3. **Execution of BSRA**
   - By FDEP and PRFBSR

4. **Implementation of BSRA**
   - By PRFBSR

5. **SRCO**

**Acronym Key**
- **PRFBSR**: Person responsible for brownfield site rehabilitation
- **BSRA**: Brownfield site rehabilitation agreement
- **SRCO**: Site rehabilitation completion order
Local government must consider whether the area:

- Warrants economic development and has a reasonable potential for such activities;
- To be designated represents a reasonably focused approach and is not overly large in geographic coverage;
- Has potential to interest the private sector in participating in rehabilitation; and
- Contains sites or parts of sites suitable for limited recreational open space, cultural or historical preservation purposes.
Local governments can propose Brownfield Area designations inside:

- Community Redevelopment Areas (CRA)
- Enterprise Zones (No new EZs as of 2015)
Local government shall designate if:

- Owner/controller agrees to site rehabilitation
- 5 new permanent jobs will be created
- Redevelopment is consistent with comprehensive plan
- Designation is properly noticed
- Reasonable assurance of financial viability
What are the differences between the State and Federal Brownfields Programs?
<table>
<thead>
<tr>
<th>State Program</th>
<th>Federal Program</th>
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<tbody>
<tr>
<td>• Incentive based</td>
<td>• Grant based</td>
</tr>
<tr>
<td>• Can be in association with an EPA grant</td>
<td>• Subject to state cleanup rules</td>
</tr>
<tr>
<td>• Available to public sector and private sector</td>
<td>• No requirement to participate in State program</td>
</tr>
<tr>
<td>• Incentives encourage reuse and redevelopment</td>
<td>• Funded “seed” amount to emphasize leveraging</td>
</tr>
</tbody>
</table>
Why participate in the Florida Brownfields Program?
Brownfields Program Benefits

Brownfield Sites (executed BSRA)

- Regulatory framework for cleanup
  (Rules 62-780 and 62-777, F.A.C.)
- Dedicated staff – expedited technical review
- Liability protection
- Voluntary Cleanup Tax Credits (*for eligible costs*)
- All benefits of the Memorandum of Agreement (MOA) with EPA
## Voluntary Cleanup Tax Credits

<table>
<thead>
<tr>
<th>Tax Credit Type</th>
<th>Application Frequency</th>
<th>% Allowed / Maximum Credit for Costs Incurred and Paid after 12/31/07</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Rehabilitation</td>
<td>Annually</td>
<td>50%</td>
</tr>
<tr>
<td>No Further Action Bonus (i.e., SRCO)</td>
<td>Once</td>
<td>25%</td>
</tr>
<tr>
<td>Affordable Housing Bonus</td>
<td>Once</td>
<td>25%</td>
</tr>
<tr>
<td>Health Care Facility Bonus</td>
<td>Once</td>
<td>25%</td>
</tr>
<tr>
<td>Solid Waste</td>
<td>Once</td>
<td>50%</td>
</tr>
</tbody>
</table>
Voluntary Cleanup Tax Credits

• Credits used to offset Florida corporate income taxes
• May be transferred once; must be used/ transferred within a 5-year period (time resets upon transfer)
• $10M annual cap as of July 1, 2017
  o If exhausted, first-come, first-served prioritized backlog rolls over to next year’s authorization
• One-time additional $8.5M as of July 1, 2018 to help clear backlog
• Credits awarded for eligible work
  o Site rehabilitation
  o Solid waste removal, transport, and disposal
• Bonus credits only awarded for:
  o Site rehabilitation (NFA/SRCO)
  o Affordable housing
  o Healthcare provider/facilities
Note: Effective July 1, 2017, the annual authorization was increased from $5 million to $10 million.

Excerpted from the August 2017 Brownfields Annual Report
Brownfields Economic Incentive Options from Others

• Loan guarantee program
  o Up to 50% of primary lender’s loan on site rehabilitation and development
  o Up to 75% for affordable housing/health care facility/providers
  o Max of $5M available

*Effective July 1, 2013 – In order to be eligible for the following incentives, the site must also have an executed BSRA or adjoin/abut a property with an executed BSRA*

• Job Bonus Refund for job creation
  o Up to $2,500 per job

• Sales Tax Credit on building materials for affordable housing or mixed-use affordable housing projects on or abutting a site with a BSRA.
Status of Program as of May 31, 2018
Figure 1
Designated Brownfield Areas Per Calendar Year

Figure 2
Executed BSRAs Per Calendar Year

Figure 3
SRCOs Per Calendar Year

Data as of May 31, 2018
• 114 brownfield sites have received SROCs.

• The total number of designated Brownfield Areas statewide is 453.

• The total number of executed BSRAs since 1997 is 321.

• DEP has received 968 VCTC applications to date; and approved tax credits totaling approximately $81.6 million as of June 30, 2017. Of this total, approximately 95% was allocated for tax credits for brownfield sites.
Another Brownfield Resource
State and Tribal Response Program (SRP) Grant

- EPA funding
- Administered by DEP
- Independent of the Florida Brownfields Program
- Grant of services, performed by DEP contractors
  - Up to $200,000 for assessment tasks
  - Up to $200,000 for remediation tasks (including source removal)
- Eligibility considerations
  - Meet federal definition of Brownfield
  - Applicant did not cause or contribute to contamination
  - No viable responsible party
  - Project provides public benefit
  - Applicant has willingness and ability to complete project
SRP Program Sites - 2018

Former Carrabelle Water Plant – Carrabelle
SRP Program Sites - 2018

Former Royal Oak Facility - Ocala

Bob Lee’s Auto Repair - Clearwater
Visit Us on the Web

• Brownfields
  • https://floridawater.dep.gov/waste/waste-cleanup/content/brownfields-program

• VCTC
  • https://floridawater.dep.gov/waste/waste-cleanup/content/voluntary-cleanup-tax-credit
Brownfields & VCTC – Trends

• Florida’s Voluntary Cleanup Tax Credit (VCTC) Program
  • 20-year VCTC program – Began in 1998
  • Through 2016, year after year, new record levels of VCTC participation
  • Although relative dip in 2016 to 2017 in VCTC total amount requested, from $14.9M (2016) to $13.07M (2017)
  • 2017 Calendar year 2017: 139 total VCTC applications
  • Increased from 136 VCTC applications (2016 calendar year)
  • Number of VCTC applications have more than doubled since 2011

• VCTC – Funding Trends
  • Currently, $10 million permanent statutory VCTC funding per year
  • Growing state VCTC funding but not yet matching VCTC participation
  • Continuing area of legislative focus/need
• **VCTC – Participation Trends**
  - Continued, high number of VCTC NFA/SRCO Bonus applications – 13 applications in both 2016 & 2017
  - Increasing percentage of VCTC NFA/SRCO bonus of total annual VCTC awards – about 14% of share (2016) – should remain steady or grow
  - Four (4) VCTC solid waste applications in each of 2016 & 2017
  - Still, relatively small amount of VCTC affordable housing bonus and health care facility VCTC bonus applications
  - Narrow statutory definition of affordable housing (100% affordable housing)
  - Surprisingly small number of non-Brownfield VCTC applications (drycleaner sites)
Brownfields & VCTC – Trends

• **BSRA & VCTC Highlights – Snapshot of Calendar Year 2016**
  • From FDEP Annual Brownfield Report, **roughly 61% of active BSRA sites** (2016) participated in Florida’s VCTC program
  • At end of 2016: 291 total BSRAs; approx. 195 active BSRAs
  • At end of 2016: 96 total NFAs/SRCOs (closed BSRA sites)
  • Calendar year 2016: 119 VCTC applications re: Brownfield sites
  • Calendar year 2016: 17 non-BSRA VCTC applications
  • Calendar year 2016: 136 total VCTC applications
  • 13 VCTC NFA/SRCO VCTA bonus applications – Average of $152,678 per bonus application
Brownfields & VCTC – Trends

**BSRA & VCTC Highlights – Snapshot of Calendar Year 2016**
- Average 2016 VCTC application amount: $109,574.90
- Average 2016 VCTC application denial: $4,013.57
- Total amount denied: $545,846.18 (of out more than $14M)
- Since 2013, more than 20 new BSRAs sites added to Brownfield program each year
- At least 30 new BSRAs each of past 2 years (2016 & 2017)
- *All-time high of 38 BSRAs executed/added in 2016*
# VCTC Award History

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Number of VCTC Applications Received</th>
<th>Total Amount of Tax Credits Requested</th>
<th>Total Amount of Tax Credits Approved</th>
<th>Site Rehabilitation</th>
<th>Solid Waste Removal</th>
<th>SRCO Bonus</th>
<th>Affordable Housing Bonus</th>
<th>Health Care Bonus</th>
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<tr>
<td>2017</td>
<td>139</td>
<td>$13,072,960.92</td>
<td>$TBD</td>
<td>$1,040,588.86</td>
<td>$1,984,813.31</td>
<td>$8,252.69</td>
<td>$500,000.00 (1)</td>
<td>$500,000.00 (1)</td>
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<td>2016</td>
<td>136</td>
<td>$14,902,186.11</td>
<td>$14,356,339.93</td>
<td>$734,688.50 (4)</td>
<td>$771,870.07 (7)</td>
<td>$453,129.42 (5)</td>
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<tr>
<td>2015</td>
<td>99</td>
<td>$11,647,244.83</td>
<td>$11,015,908.91</td>
<td>$500,000.00 (1)*</td>
<td>$879,095.66 (8)</td>
<td>$102,353.19 (1)</td>
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<tr>
<td>2014</td>
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<td>$879,095.66 (8)</td>
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<td>2013</td>
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<td>2012</td>
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<tr>
<td>2011</td>
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<td>2010</td>
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<td>2009</td>
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<td>$5,936,895.04</td>
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<td>2008</td>
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<td>2003</td>
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<td>2002</td>
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<td>$1,068,049.00</td>
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<td>2001</td>
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<td>$494,194.00</td>
<td>$494,194.00</td>
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<td>2000</td>
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<td>$92,244.01 (4)</td>
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<td>1999</td>
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<td>$118,438.00</td>
<td>$118,438.00</td>
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<td>1998</td>
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<td>$30,228.00</td>
<td>$92,244.01 (4)</td>
<td></td>
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</tbody>
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**Note:** Numbers in parentheses indicate numbers of application for the corresponding total

* A second application was denied (all) SW costs; challenged and didn't see it was resolved with an award.
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