Brownfields Property Application
North Carolina Brownfields Program

Instructions/Important Information for Applicants

The Brownfields Property Reuse Act (Act) sets forth the conditions under which a site and a prospective developer (PD) are eligible for a brownfields agreement. To start the process of seeking a brownfields agreement, please complete this application. The North Carolina Department of Environment and Natural Resources' (DENR's) North Carolina Brownfields Program (NCBP) will base its eligibility determination on the information provided in this application and on other information that may be obtained by NCBP. This eligibility determination is an administrative tool that allows the NCBP to spend resources strictly on those sites that meet the statutory eligibility criteria. The application will also allow the NCBP to allocate its resources first to those projects that demonstrate the highest degree of public benefit.

The application form is available for download at **www.ncbrownfields.org** as an MSWord form and a PDF. It is divided into the following sections:

Section I. Prospective Developer Information - facts regarding the applicant
Section II. Site Information - facts regarding the property
Section III Other Required Information - a "checklist" to help ensure that additional information that must be submitted with the application is included.
Section IV. Additional Required Forms - NCBP has two forms that are required to be used for two of the attachments to this application: a "Preliminary Proposed Brownfields Agreement" form and a "Responsibility and Compliance Affidavit" form. **Please note that the "Preliminary Proposed Brownfields Agreement" must be initialed and the "Responsibility and Compliance Affidavit" must be signed and notarized.**

A determination of eligibility does not mean that the site is guaranteed to remain eligible or that the PD is assured of receiving a final brownfields agreement; rather, it means that a PD is eligible to seek a brownfields agreement regarding the site. As the process moves forward, NCBP has the continuing duty to exercise its discretion as to whether DENR should enter into a brownfields agreement regarding a particular site. Comments received from the public may alter NCBP's view regarding eligibility. Also, new information that runs counter to statutory eligibility criteria and obtained by the NCBP following an affirmative eligibility determination will require NCBP to re-evaluate eligibility.

The Act requires DENR to determine that brownfields projects have public benefit commensurate with the liability relief provided by the brownfields agreement. Letters of community support can be a strong gauge of public benefit. Economic development factors are important measures of this as well. Therefore, in Section II, please be as specific as possible regarding questions that pertain to economic measures of public benefit, including job creation, redevelopment investment, etc. Please be assured that while the NCBP reports this information to the General Assembly as a measure of overall programmatic public benefit, we do not report it on a site-specific basis. The data is only used in aggregate.

The process of applying for entry into the NCBP is as follows:

Download, fill out, and return the Brownfields Property Application form. If you do not have internet access you may contact the NCBP at (919)707-8383 to obtain a copy of this form. If you have MSWord as a word processor, you may use it to download and fill out the MSWord Form (downloading the form in PDF format will require that the form be filled out by hand). You must submit the original forms and attachments to:

NC Brownfields Program
Attention: Shirley Liggins
N.C. Department of Environment and Natural Resources
Division of Waste Management
Mail Service Center 1646
Raleigh NC 27699-1646

Please note that attachments to the application include the "Responsibility and Compliance Affidavit", which must be **signed and notarized**, and the "Preliminary Proposed Brownfields Agreement", which must be **initialed.** (*Be advised that the Preliminary Proposed Brownfields Agreement is primarily an informational form for the NCBP to use in generating the brownfields agreement and is not the actual brownfields agreement that will be signed by DENR.*)

1. Based upon the review of the application, the NCBP will provide the applicant PD one of the following:
    A. A Letter of Eligibility (LOE) indicating that the property is eligible for continued negotiations towards a brownfields agreement. Upon receipt of an LOE, the initial statutory fee of $2,000 is due from the PD to the NCBP. At this point, the PD also needs to submit any and all environmental data it has or can obtain regarding the site;
    B. A Letter of Deficiency indicating that the submitted application is deficient in some manner and eligibility cannot be determined, at which time additional information or corrections to the application will be requested from the applicant PD; or
    C. A letter indicating that the property and/or the applicant PD are ineligible for a brownfields agreement.

The above steps end the application process. The remainder of the process of obtaining the brownfields agreement is summarized as follows:

3. The NCBP reviews the existing environmental data and determines if there are knowledge gaps. The NCBP may require additional assessment to be conducted by the PD to fill in those gaps. Depending on the situation, such assessment may be required prior to completion of a draft brownfields agreement or it may be incorporated in the brownfields agreement requirements.

4. The NCBP considers all data at hand and drafts the brownfields agreement outlining those items necessary to make the site suitable for the uses intended while fully protecting public health and the environment. These items could include land use restrictions, engineered controls, remedial actions or a combination of these actions. The draft BFA is forwarded to the PD.

5. The final draft brownfields agreement is negotiated and finalized between DENR and the PD. The statutory ancillary documents are prepared (including a brownfields property plat and Notice of Intent to Redevelop a Brownfields Property) and this notice is opened to public comment for a minimum of 30 days.

6. A second fee, required by statute to defray the costs to DENR and DOJ, will be due from the PD prior to execution of the brownfields agreement. Presently this second fee is $6,000, subject to negotiation in the brownfields agreement. Should the prospective developer choose to negotiate changes to the agreement that necessitate evaluation by the Department of Justice, additional fees shall apply.

7. Any addendum/modification of the Brownfields documents after they take effect will require a fee from you in the amount of at least $1,000.00.

8. In the absence of public comment which affects the agreement it is then signed and the agreement becomes effective (i.e., executed). If the NCBP receives public comment or a equest for a public meeting, the NCBP will consider input from the public and determine any necessary changes to the brownfields agreement. It will then decide whether those changes warrant an additional public comment period or if the brownfields agreement can be executed after the appropriate changes are made.

9. The PD records the Notice of Brownfields Property at the county register of deed's office.

10. Once executed, brownfields agreements require that the owner of any part of the brownfields property provide an annual certification to the NCBP (known as a Land Use Restriction Update or LURU) that the Notice of Brownfields Property containing the land use restrictions remains recorded at the register of deeds and that the land use restrictions are being complied with.

Please contact NCBP if you have questions or require additional guidance regarding this application form or the process. Contact information is available on our website: **www.ncbrownfields.org** or by calling 919-707-8200.

Brownfields Property Application

North Carolina Brownfields Program

www.ncbrownfields.org

I. PROSPECTIVE DEVELOPER (PD) INFORMATION {USE TAB KEY TO GET TO NEXT DATA ENTRY LINE – DO NOT USE THE RETURN KEY}

A. PD information:

Entity name

Principal Officer

Representative

Mailing Address

E-mail address

Phone No.

Fax No.

Web site

B. PD contact person information *(i.e., individual who will serve as the NCBP's point of contact if different than above)*:

Name

Company

Mailing Address

E-Mail Address

Phone No.

Fax No.

C. Information regarding all parent companies, subsidiaries or other affiliates of PD *(attach separate sheet(s) if necessary)*:

(Use for LLCs)
Member-managed or manager-managed? **Answer:**

If manager-managed, provide name of manager and percent of ownership:

Name
Ownership (%)
Mailing Address

E-Mail Address
Phone No.
Fax No.

For all LLCs, list all members of the LLC and provide their percent of ownership:

Name
Ownership (%)
Mailing Address

E-Mail Address
Phone No.
Fax No.

Name
Ownership (%)
Mailing Address

E-Mail Address
Phone No.
Fax No.

Name
Ownership (%)
Mailing Address

E-Mail Address
Phone No.
Fax No.

Managers of manager-managed LLCs are required to execute all brownfield documents for the LLC; as to member-managed LLCs, state name of member who will sign these documents.

List all parent companies, subsidiaries and other affiliates:

(Use for Partnerships)

Check one: ☐General Partnership ☐Limited Partnership

List all partners and percent of ownership:

Name

Ownership (%)

Mailing Address

E-Mail Address

Phone No.

Fax No.

Is this person a general or limited partner?

Name

Ownership (%)

Mailing Address

E-Mail Address

Phone No.

Fax No.

Is this person a general or limited partner?

List all parent companies, subsidiaries and other affiliates:

(Use for corporations other than LLCs)
(If information is the same as shown in 1.A., please indicate "same as 1.A." below.)

Name

Mailing Address

E-Mail Address

Phone No.

Fax No.

List all parent companies, subsidiaries and other affiliates:

(Use for individuals)
(If individual is the same as shown in 1.A., -please indicate "same as 1.A." above.)

Name

Mailing Address

E-Mail Address

Phone No.

Fax No.

D. Does PD have or can it obtain the financial means to fully implement a brownfields agreement and assure the safe reuse of the property? *(Attach supporting documentation such as letters of credit, financial statements, etc.)*

Answer

Explanation

E. Does PD have or can it obtain the managerial means to fully implement a brownfields agreement and assure the safe use of the property?

Answer

Explanation

F. Does PD have or can it obtain the technical means to fully implement a brownfields agreement and assure the safe use of the property?

Answer

Explanation

G. Does PD commit that it will comply (and has complied, if PD has had a prior project in the NCBP) with all applicable procedural requirements of the NCBP, including prompt payment of all statutorily required fees?

Answer

(List all NCBP project name(s) and NCBP project ID numbers where PD or any parent company, subsidiary and other affiliate of PD has been a party to.)

H. Does PD currently own the property?

Answer

If yes, when did PD purchase the property and from whom? *(Provide name, address, telephone number and email address of the contact person for the current property owner.)*

If no, provide the name, address, telephone number and e-mail address of the contact person for the current property owner

I. If PD does not currently own the property, does PD have the property under contract to purchase?

Answer

If yes, provide date of contract.

If no, when does the PD intend to purchase the property (e.g., after the project is determined to be eligible for participation in the NCBP, after PD receives a draft BFA, after the conclusion of the brownfields process)? Note: the Act requires the PD to demonstrate that it intends to either buy or sell the property.

J. Describe all activities that have taken place on the property since PD or PD's parents, subsidiaries and/or other affiliates, and/or lessees or sublessees of PD, took ownership of or operated at the property (e.g., industrial, manufacturing or commercial activities, etc.). *(Include a list of all regulated substances as defined at NCGS § 130A-310.31(b)(11) that have been used, stored on, or otherwise present at the property while those activities were conducted, and explain how they were used.)*

II. SITE INFORMATION

A. Information regarding the proposed brownfields property:

Proposed project name

acreage County

street address(es)

city zip

tax ID(s) or PIN(s)

past use(s)

current use(s)

cause(s)/source(s) of contamination:

known

suspected

B. Regulatory Agency Involvement: List the site names and all identifying numbers (ID No.) previously or currently assigned by any federal, state or local environmental regulatory agencies for the property. The ID No's may include CERCLIS numbers, RCRA generator numbers for past and present operations, UST database, Division of Water Quality's incident management database, and/or Inactive Hazardous Sites Branch inventory numbers. *(In many instances, the PD will need to actively seek out this information by reading environmental site assessment reports, reviewing government files, contacting government officials, and through the use of government databases, many of which may be available over the internet.)*

Agency Name/ID No:

Agency Name/ID No:

Agency Name/ID No:

Agency Name/ID No:

Agency Name/ID No:

Agency Name/ID No:

C. In what way(s) is the property is abandoned, idled, or underused?

D. In what way(s) is the actual or possible contamination at the property a hindrance to development or redevelopment of the property *(attach any supporting documentation such as letters from lending institutions)*?

E. In what way(s) is the redevelopment of the property difficult or impossible without a brownfields agreement *(attach any supporting documentation such as letters form lending institutions)*?

F. What are the planned use(s) of the redeveloped brownfields property to which the PD will commit? Be as specific as specific as possible.

G. Current tax value of brownfields property: $

H. Estimated capital investment in redevelopment project: $

I. List and describe the public benefits that will result from the property's redevelopment. Be as specific as possible. (*Examples of public benefits for brownfields projects include job creation, tax base increases, revitalization of blighted areas, preserved green space, preserved historic places, improving disadvantaged neighborhood quality-of-life related retail shopping opportunities, affordable housing, environmental cleanup activities or set asides that have community or environmental benefits. In gauging public benefit, NCBP places great value upon letters of support from community groups and local government that describe anticipated improvements in quality of life for neighboring communities that the project will bring about. The inclusion of such support letters with this application is recommended and encouraged.*)

Special Note: Please describe all environment-friendly technologies and designs PD plans to utilize in its redevelopment strategy. For example, environment friendly redevelopment plans could include: Leadership in Energy and Environmental Design (LEED) Certification, green building materials; green landscaping techniques such as using drought resistant plants; energy efficient designs, materials, appliances, machinery, etc.; renewable sources of energy, and/or recycling/reuse of old building materials such as brick or wood.

J. Who will own the brownfields property when the Notice of Brownfields Property is filed with the register of deeds at the conclusion of the brownfields process? *(If information is the same as 1.A. above, please indicate.)*

Name

Mailing Address

E-Mail Address

Phone No.

Fax No.

III. OTHER REQUIRED INFORMATION

A. Brownfields Affidavit: PD must provide its certification, in the form of a signed and notarized original of the unmodified model brownfields affidavit provided by NCBP, that it did not cause or contribute to contamination at the property and that it meets all other statutory eligibility requirements. *(Note: The form to use for this affidavit is attached to this application. It must be filled out signed notarized, and submitted with this application.)*
Is the required affidavit, as described above, included with this application?

Answer

B. Proposed Brownfields Agreement Form: PD must provide the completed form Proposed Brownfields Agreement. *(Note: The form to use for this document is attached to this application. It must be filled out, initialed, and attached on your submittal.)*
Is the required Proposed Brownfields Agreement , as described above, included with this application?

Answer

C. Location Map: PD must provide a copy of the relevant portion of the 1:24,000 scale U.S.G.S. topographic quadrangle map that shows the property clearly plotted, and that measures at least an 8 ½ by 11 inches. *(Note: these maps can be purchased through the above link, or often through retail outdoor recreation stores that can print out the relevant map. Often environmental reports have location maps that use this type of map as the base for its location map.*)
Is the required location map included with this application?

Answer

D. Survey Plat: PD must provide a preliminary survey plat of the brownfields property with the property boundaries clearly identified, and a metes and bounds legal description that matches the property description on the plat. At this stage of the brownfields process; one or more existing survey plats from a previous property conveyance will suffice. *(Before the brownfields project enters the public comment phase of the brownfields process, the PD will be required to submit a final brownfields survey plat which includes the information listed in the brownfields survey plat guidance.)*
Is the required preliminary survey plat included with this application?

Answer

E. Site Photographs: PD must provide at least one pre-redevelopment photograph of the property, in either hard copy or electronic format that shows existing facilities and structures. **Please note that the NCBP prefers to have electronic photos instead of or in addition to hard copies. Electronic copies of photographs should be emailed to: Shirley.Liggins@ncdenr.gov with a clear indication as to which Brownfields Application they apply to.**
Are photographs of the property included with this application?

Answer

Have electronic copies of the photographs been emailed to NCBP?

Answer

F. Environmental Reports/Data: If it makes an affirmative eligibility determination, the NCBP will request that PD provide any and all existing environmental reports and data for the property on **CD only**. The brownfields process may be expedited if PD submits such reports/data with this application.
Are any environmental reports/data being submitted with this application?

Answer

If environmental reports/data are being submitted with this application, please provide the **title**, **date** and **author** of each item being submitted:

IV. ADDITIONAL REQUIRED FORMS

The following forms are to be filled out and submitted with the application including the Responsibility and Compliance Affidavit and the Proposed Brownfields Agreement. Submittal of the Affidavit requires signature and notarization, and the Proposed Brownfields Application requires an initial.

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
NORTH CAROLINA BROWNFIELDS PROGRAM

IN THE MATTER OF: <<Company Name>>

UNDER THE AUTHORITY OF	**)**	**AFFIDAVIT**
NORTH CAROLINA GENERAL	**)**	**RE: RESPONSIBILITY**
STATUTES ϶ 130A-310.30, et. seq.	**)**	**AND COMPLIANCE**

<<PROSPECTIVE DEVELOPER NAME>>, being duly sworn, hereby deposes and says:

1. I am <<Title>> of <<Company>>.
2. [if signatory is not President, add this paragraph: "I am fully authorized to make the declarations contained herein and to legally bind <<Company>>."]
3. <<Company>> is applying for a Brownfields Agreement with the North Carolina Department of Environment and Natural Resources, pursuant to N.C.G.S. ϶ 130A, Article 9, Part 5 (Brownfields Act), in relation to the following <<Parcel Number(s)>>parcel(s) in <<City>>, <<County>> , County, North Carolina: <<Street Address No. 1, Street Address No. 2, etc.>>
4. I hereby certify, under the pains and penalties of perjury and of the Brownfields Act, that <<Company>>, and any parent, subsidiary or other affiliate meets the eligibility requirements of N.C.G.S. ϶ 130A-310.31(b)(10), in that it has a *bona fide*, demonstrable desire to **buy**☐ **sell** ☐ for the purpose of developing or redeveloping, and did not cause or contribute to the contamination at, the parcel(s) cited in the preceding paragraph.
5. I hereby certify, under the pains and penalties of perjury and of the Brownfields Act, that <<Company>> meets the eligibility requirement of N.C.G.S.϶130A-310.32(a)(1) in that it and any parent, subsidiary or other affiliate have substantially complied with:
   a. the terms of any brownfields or similar agreement to which it or any parent, subsidiary or other affiliate has been a party;
   b. the requirements applicable to any remediation in which it or any parent, subsidiary or other affiliate has previously engaged;
   c. federal and state laws, regulations and rules for the protection of the environment.

Affiant further saith not.

_____
Signature/Printed Name

Date

Sworn to and subscribed before me

this _____ day of _____, 20___.

_____ Notary Public

My commission expires: _____ (SEAL)

Preliminary Proposed Brownfields Agreement

I. Property Facts

a. Property Address(es):

b. Property Seller:

c. Property Buyer:

d. Brief Property Usage History:

e. The planned reuse will potentially involve the following use classification(s) (check all that apply):

☐ School/childcare/senior care
☐ Residential
☐ Commercial, retail (specify)
☐ Other commercial (specify)
☐ Office
☐ Light industrial
☐ Heavy industrial
☐ Recreational
☐ Open space
☐ Other (specify)

II. Contaminant Information

a. The contaminant situation at the property is best described by the following (check all that apply):

☐ Contaminants are from an on-property source(s)
☐ Contaminants are from an off-property source(s)
☐ Contaminants are from an unknown source(s)
☐ Contaminants have not yet been documented on the property

b. Contaminated Media Table. (If known, check appropriate boxes below)

Contaminant Types		Soil		Groundwater and/or Surface Water		Private Wells		Vapor Intrusion	
		known	Suspected	known	Suspected	known	suspected	known	suspected
organics	Chlorinated Solvents (list):								
	Petroleum: ASTs ☐ USTs ☐ Other ☐								
	Other (list):								
inorganics	Metals (list):								
	Other (list):								

III. Protective Measures

I am prepared to take steps necessary to make the property suitable for its planned uses while fully protecting public health and the environment. I propose that NCBP consider a brownfields agreement that will make the property suitable for the planned use(s) through the following mechanism(s) (check all that apply):

☐ Contaminant remediation to risk-based levels.
☐ Engineered Controls (e.g., low permeability caps, vapor mitigation systems, etc)
☐ Land use restrictions that run with the land that will restrict or prohibit uses that are unacceptable from a risk assessment/management perspective. (*Important Note*: *In any*

final brownfields agreement generated by the NCBP, land use restrictions will ultimately come with the continuing obligation to submit an annual certification that the Land Use Restrictions are being complied with and are recorded at the applicable register of deeds office.)

IV. Fees

In connection with a brownfields agreement, the Act requires that the developer pay fees to offset the cost to the Department of Environment and Natural Resources and the Department of Justice. In satisfaction of the Act, the following fees apply to any brownfields agreement that is developed for this project, subject to negotiation of the brownfields agreement:

a. A $2,000 initial fee will be due from the applicant PD when **both** of the following occur:

1) NCBP receives this application and proposed brownfields agreement, AND

2) NCBP notifies the applicant in writing that the applicant PD and the project are eligible for participation in the NCBP and continued negotiation of a brownfields agreement.

b. A second fee of $6,000 will be due from the PD prior to execution of the brownfields agreement. Should the prospective developer choose to negotiate changes to the agreement that necessitate evaluation by the Department of Justice, additional fees shall apply.

c. Any addendum/modifications to the BFA or NBP after they are in effect will result in an additional fee of at least $1,000.

d. In the unexpected event that the environmental conditions at the property are unusually complex, such that NCBP's costs will clearly exceed the above amounts, NCBP and PD will negotiate additional fees.

☐ _____ Please check this box and initial in space provided to indicate your acknowledgement of the above fee structure.

Date of Submittal: _____