



MICHIGAN STRATEGIC FUND

BROWNFIELD TAX INCREMENT FINANCING MSF PROGRAM GUIDELINES

PROGRAM OVERVIEW

The Brownfield program has three distinct components with approvals by separate entities.¹

This includes:

- I. Local Plans in which local units of government that are authorized to create Brownfield Redevelopment Authorities (BRA) develop and approve brownfield plans that promote revitalization of brownfield properties through the use of Brownfield Tax Increment Financing (TIF).
- II. Local and Department of Environment, Great Lakes and Energy (EGLE) Plans which have local capture in addition to approval from EGLE for projects requesting incremental State Taxes be captured to pay for department-specific eligible activities.
- III. Local and Michigan Strategic Fund (MSF) Plans which include local capture in addition to approval from the MSF for incremental State Tax capture to reimburse for non-department (EGLE) specific eligible activities² which are referred to as non-environmental or MSF brownfield eligible activities.

The Brownfield Program helps to facilitate the redevelopment of brownfield properties³ that might otherwise be cost prohibitive due to the pre-existing conditions on the property (e.g., contaminated, functionally obsolete, historic or blighted) or due to tax-reverted status. This tool provides BRAs in Michigan communities with the ability to capture most of the incremental increase in property tax millages, generated from increased property tax values, to reimburse developers, local units of government or other investors for development activities (identified in The Act). Generally, Brownfield TIF is used to support redevelopment projects by providing a financing mechanism for brownfield eligible activities.

PROGRAM GOALS

The Brownfield Program encourages and promotes capital investment and redevelopment of brownfield and historic properties in order to transform underutilized properties into vibrant areas that are attractive to residents and businesses.

The MSF supports these goals by:

- Attracting investors to brownfield sites to create new jobs, housing and general vitality to serve as a catalyst for other investment and talent recruitment and retention; and
- Facilitating business attraction, expansion and retention.

To ensure alignment with the state's priorities, each prospective project is extensively evaluated to determine the business opportunity, financial need, and the overall benefits related to the reuse of a property.

APPLICANT CRITERIA

¹ Approval of Brownfield TIF by other entities may include different considerations than those outlined herein.

² Eligible activities include, but are not limited to, demolition, lead, asbestos or mold abatement, site preparation and infrastructure improvements that directly benefit the eligible property as defined in the [Act 381 Work Plan Guidance Document](#).

³ Brownfield properties are defined in Act 381 Section 2 (p) "Eligible property" as defined under Brownfield Redevelopment Financing Act, as amended (The "Act") and summarized in Appendix A herein,



MICHIGAN STRATEGIC FUND

The Act authorizes local units of government to create Brownfield Redevelopment Authorities to develop and approve local brownfield plans. Generally, properties are identified by the Brownfield Redevelopment Authority or municipality in conjunction with a developer or company interested in redeveloping that property. Interested applicants must first apply for TIF through their local BRA. Once locally approved, any BRA that has a project that fits the goals of the program as determined by the MSF may apply.

PROJECT CONSIDERATIONS

In addition to being required to document that the project is located on an eligible property (see **Appendix A**) through the locally approved brownfield plan, the Michigan Strategic Fund shall consider the following statutory criteria to the extent reasonably applicable to the type of activities proposed as a part of the prospective work plan:

- Whether the individual activities included in the work plan are sufficient to complete the eligible activity. (Sec 15(12)(a)).
- Whether each individual activity included in the work plan is required to complete the eligible activity. (Sec 15(12)(b)).
- Whether the cost for each individual activity is reasonable. (Sec 15(12)(c)).
- The overall benefit to the public. (Sec 15(12)(d)).
- The extent of reuse of vacant buildings and redevelopment of blighted property. (Sec 15(12)(e)).
- Creation of Jobs. (Sec 15(12)(f)).
- Whether the eligible property is in an area of high unemployment. (Sec 15(12)(g)).
- The level and extent of contamination alleviated by or in connection with the eligible activities. (Sec 15(12)(h)).
- The level of private sector contribution. (Sec 15(12)(i)).
- If the developer or projected occupant of the new development is moving from another location in this state, whether the move will create a brownfield. (Sec 15(12)(j)).
- Whether the project of the developer, landowner, or corporate entity that is included in the work plan is financially and economically sound. (Sec 15(12)(k)).
- Other state and local incentives available to the developer, landowner, or corporate entity for the project of the developer, landowner, or corporate entity that is included in the work plan. (Sec 15(12)(l)).
- Any other criteria that the Michigan Strategic Fund considers appropriate for the determination of eligibility or for approval of the work plan. (Sec 15(12)(m)).

OTHER PROJECT CONSIDERATIONS:

Expanding upon the statutory criteria outlined above, the MSF will also consider the project's local and regional impact, place considerations and economic and financial considerations. The considerations listed below are aimed at ensuring alignment between the economic priorities of the state with the needs of local municipalities. Projects are unique and each will be considered on its own merits, therefore, there is no scoring or minimum number of considerations to be met.

Local and Regional Impact Considerations:

- Project supports the vision and goals stated in the local master plan, downtown plan, capital improvements plan, economic development strategy, or regional economic development strategy or initiative.
- Project is located in and/or addresses adopted strategies of a Redevelopment Ready Community, Michigan Main Street Community or a community engaged in Build Ready Sites.
- Project aligns with or supports other state agency initiatives or coordinated state agency activities.
- Community financially supports the project as demonstrated through local tax increment revenue capture or other financial support for the project.
- The proposed project will not cause detriment to adjacent municipalities.
- Project positively contributes to public health through abatement of lead, asbestos, mold or other contaminants.
- Project strengthens connections between local/regional workforce and career opportunities and the community, region and/or state's overall workforce and opportunities particularly in support of the growth and development of the MEDC's strategic focus industries.
- Project is supported by existing utilities, housing, transportation, public transit and other community services.
- Project includes improvements and upgrades to existing public infrastructure and public spaces.



MICHIGAN STRATEGIC FUND

- The community has a documented public participation strategy for engaging a diverse set of community stakeholders.
- Project is proposed entirely or in part by emerging developer(s)⁴ who seek to generate community development projects that serve as a catalyst for community impact, specifically in Geographically Disadvantaged Business Locations.
- Located in a Geographically Disadvantaged Business Location⁵; [Click here](#) to see a map of Michigan's Geographically Disadvantaged Business Locations.
- Supports business attraction, expansion or retention within MEDC's identified strategic focus industries, which includes, without limitation, Mobility and Automotive Manufacturing, Medical Device Technology, Engineering, Design and Development, Technology, Advanced Manufacturing and Professional and Corporate Services.
- Supports business attraction, expansion or retention within a Regional Impact Industry, which includes, without limitation, Agribusiness, Tourism, Logistics, Financial Services and Other Manufacturing.
- Project supports opportunities for creation of new, high wage jobs and/or pathway jobs⁶.

Place Considerations:

- Project includes context-sensitive concentrated development, meaning it has density, building type(s), and scale appropriate to the neighborhood context and positively contributes to the pedestrian experience.
- Contributes to a traditionally dense mixed-use area and contains multi-story elements.
- Project promotes restoration of a Historic Resource.
- Project promotes mixed-income neighborhoods.
- Incorporate integrated and sustainable approaches to manage the quantity and the quality of stormwater for infrastructure improvements.
- Proposed plans demonstrate principles of Universal Design; designed to be accessed, understood and used to the greatest extent possible by all people.
- Redevelopment meets a third-party certification for green buildings (e.g., Leadership in Energy and Environmental Design [LEED], Energy Star, Living Building Challenge, Net Zero Energy Building, Green Globes).
- Availability of public transportation, non-motorized transportation infrastructure or other transportation programs to improve job access, or proximity/accessibility for workforce.

Economic and Financial Considerations:

- Financial need for the incentive is clearly demonstrated and a “but for” case can be made.
- The project appears to be financially viable based on the amount of developer equity and projected cash flow to fully service all proposed debt and returns are reasonable.
- Anticipated future taxable values are based on reasonable projections.

FINANCIAL STRUCTURE AND AWARD LIMITATIONS

The MSF (or EGLE) may authorize the capture of tax increment revenue generated from the School Operating millage (18 mills) and State Education Tax (SET) millage (6 mills) by the requesting BRA. These tax revenues, for

⁴ Michigan-based developers with limited real estate experience and financial resources who support local initiatives and have completed commercial real estate training programs.

⁵ Geographically Disadvantaged Business Locations are defined as economically distressed and historically underinvested census tracts and counties, especially in urban and rural areas, that tend to experience relatively high unemployment and low household incomes. MEDC and the State of Michigan operationalize Geographically Disadvantaged Business Locations to constitute Treasury-designated Opportunity Zones and Small Business Administration-defined HUBZones (Historically Underutilized Business Zones).

⁶ A Pathway Job is categorized as either “targeted” or “promising.” A targeted job is a Qualified New Job in which the wages generally allow a family to sustain life needs such as food, shelter, utilities, transportation and childcare, etc. to support a modest life style, and also includes an employer sponsored health program and/or other employer sponsored benefits. Identifying a target job is generally determined using third-party resources. A promising job is a Qualified New Job in which the wage is below a wage generally considered a “targeted” wage threshold for the applicable county, however, is designed to provide a career pathway to a “targeted” job within a reasonable period of time, such as over a five (5) to ten (10) year period. Identifying a “promising” job is generally determined through identified proposed training that is expected to result in industry-recognized credentials, or third-party resources and analyses then utilized by the MEDC.



MICHIGAN STRATEGIC FUND

which capture is approved by the MSF or EGLE are referred to as State Tax. Fifty percent of the taxes levied under the SET captured annually for up to 25 years for projects included in a brownfield plan after January 1, 2013 will be paid to the state for use in the State Brownfield Redevelopment Fund to support program administration and grant and loan programs. The amount of the request considered by the MSF cannot exceed the maximum amount of eligible activities as identified in the brownfield plan. There is no eligible activity maximum amount for a single request; however, the MSF reserves the right to award less than the amount requested, based on staff evaluation of the proposed project.

APPLICATION AND SELECTION PROCESS

All applicants are required to provide a draft work plan while working with their Community Assistance Team member or Business Development Manager. Community Assistance Team members can be identified by going to miplace.org and Business Development Managers can be identified by going to michiganbusiness.org.

The following is a summary of the process⁷:

1. Identify Project: MEDC engages with local partners around a potential project.
2. Project Scoping and Feasibility Review: Applicant provides draft intake documentation for initial review.
3. Letter of Interest: MEDC provides a Letter of Interest, when appropriate.
4. MEDC completes a comprehensive review of the project, including compliance with statutory requirements, verification of local approval, background check of entities being reimbursed and works with the applicant to ensure they have an administratively complete work plan with additional supporting documents.
5. MEDC prepares a recommendation to the Michigan Strategic Fund (MSF) Board or its authorized delegate for consideration and if approved, the BRA administers collection of State Tax increment and developer reimbursement.
6. The BRA reports project activity annually, and the MEDC provides reporting results to the legislature, required by Act 381⁸.

Background Check

The Michigan Strategic Fund (“MSF”) Act requires the MSF Board to establish requirements to ensure any applicant(s) seeking an MSF incentive in the amount of \$15,001 or more is subject to a civil and criminal background check as part of the due diligence process for programs and activities created and operated by the MSF. Background check guidelines and procedures are outlined in the [MSF Background Review Policy](#) and can be found on our website at michiganbusiness.org.

PROGRAM REQUIREMENTS AND LIMITATIONS

The MEDC, in conjunction with the Department of Environment, Great Lakes and Energy (EGLE) provides an Act 381 Work Plan Guidance document, which is [posted online](#) and contains in depth explanation of statutory definitions and eligible activities. See **Appendix B** for specific statutory interpretations and MSF policies.

APPENDIX A: ELIGIBLE PROPERTY

Eligible property includes one or more of the following:

⁷ A more detailed process flow chart can be found at miplace.org.

⁸ BRAs are statutorily required to report BRA activity and active project data to the MEDC by August 31 on an annual basis. For a project to be eligible for Community Development Incentive Support, the municipality in which the project is located must be in compliance with the statutory reporting requirements.



MICHIGAN STRATEGIC FUND

Facility:

As defined in Public Act 451 of 1994, MCL 324.20101, means any area, place, or property where a hazardous substance in excess of concentrations that satisfy the cleanup criteria for unrestricted residential use has been released, deposited, disposed of, or otherwise comes to be located. A Phase I and Phase II Baseline Environmental Assessment is used to determine whether the property is a facility. The MEDC will confirm with the Michigan Department of Environment, Great Lakes and Energy (EGLE) who will certify the property as a facility after adequate documentation is received from the developer.

Historic Resource:

A publicly or privately-owned historic building or structure, individually listed, or located within a historic district designated by the National Register of Historic Places, the State Register of Historic Sites, or a local unit acting under the Local Historic Districts Act, 1970 PA 169. Documentation is required to verify any of the above designations.

Functionally Obsolete:

Property that is unable to be used to adequately perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself, or the property's relationship with other surrounding property as determined by a Michigan Advanced Assessing Officer or a Michigan Master Assessing Officer.

Blighted:

Property that meets any of the following criteria as determined by the respective unit of government, building official, or assessor when applicable:

- Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance;
- Is an attractive nuisance to children because of physical condition, use, or occupancy;
- Is a fire hazard, or is otherwise dangerous to the safety of persons or property;
- Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;
- Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state;
- Is property owned, by or under the control of, a land bank fast track authority under the Land Bank Fast Track Act, 2003 PA 258; and
- Has substantial subsurface demolition debris buried on site so that the property is unfit for its intended use.

Transit-Oriented Property:

Property that houses a transit station in a manner that promotes transit ridership or passenger rail use.

Transit-Oriented Development:

Infrastructure improvements that are located within ½ mile of a transit station or transit-oriented property that promotes transit ridership or passenger rail use as determined by the municipality.

Targeted Redevelopment Area (TRA):

A development area with at least 40 and no more than 500 contiguous parcels located within a Qualified Local Government Unit (QLGU) and designated as a TRA by resolution of the governing body and approved by the MSF.

Adjacent or Contiguous:



MICHIGAN STRATEGIC FUND

Other parcels that are adjacent or contiguous to qualifying property described above that is part of the same project and all properties are improved.



MICHIGAN STRATEGIC FUND

APPENDIX B: Detailed Program Policies

Land Bank Fast Track Authority Owned or Controlled Eligible Property

Act 381 allows any property owned by or under the control of a Land Bank Fast Track Authority (LBFTA) to qualify as eligible property under the blighted definition, however, the MSF will not support state tax capture for projects that qualify as blighted due to being owned or under the control of a LBFTA, if there is not a clear demonstration that the property was acquired and held by the LBFTA for a reasonable amount of time prior to the property's inclusion within a brownfield plan, or if acquisition of the property by the LBFTA was for the purpose of reducing the property's initial taxable value to zero, increasing access to additional eligible activities or qualifying an otherwise non-brownfield property as a brownfield. Exceptions to this policy that allow for the transfer of properties to a land bank will be considered for projects where the land bank has waived the 5/50⁹ capture for those properties and one or more of the following apply:

- Project has state or federal mortgages or regulatory agreements in place for affordable or attainable housing
- Project is preserving a historic resource
- Project is expected to have an extraordinary economic development benefit to the state and also has extraordinary infrastructure needs. These projects will have a profound ripple effect of positive change that fundamentally enhances the fiscal capacity of state and local governments or redefines the identity and image of the state's economy.

Targeted Redevelopment Area (TRA)

Act 381 allows for properties to qualify as eligible properties by being included in a targeted redevelopment area of not fewer than 40 and not more than 500 contiguous parcels of real property located in a qualified local governmental unit and designated as a Targeted Redevelopment Area by resolution of the governing body and approved by the Michigan Strategic Fund. A brownfield plan using the Targeted Redevelopment Area designation to qualify eligible property should fully describe the goals of the project and why the parcels should qualify for the designation. The MSF will consider support for a TRA based on the prevalence of brownfield conditions throughout the proposed area, and the likelihood that designation will lead to significant alleviation of brownfield conditions. The following criteria apply to eligible property designated as a TRA by the BRA and MSF:

- Capture on all parcels must begin at the same time, and within five years of inclusion in the brownfield plan.
- Parcels included in a TRA designation must have identified eligible activities occurring on or supporting the eligible property.
- Once a TRA designation is approved, parcels may not be removed. Parcels included in a TRA designation may only be removed from the associated brownfield plan or Act 381 work plan through the termination or abolishment of the brownfield plan and TRA designation by the approving BRA.
- Eligible property included in the TRA designation may not be contributing available capture to another TIF authority.

Eligible Activity Costs Incurred Prior to MSF Approval

Any costs incurred for MSF eligible activities prior to approval of the brownfield plan, work plan, or combined brownfield plan are made at the developer's risk and with the understanding that State Tax capture may not be approved for those activities. The MSF understands that there are often practical reasons that some non-environmental eligible activities may be incurred prior to completion and approval of the brownfield plan and the Act 381 work plan. The date which eligible activity costs may be incurred and included in the reimbursement of eligible activity costs recommended for

⁹ 5/50 Capture is fifty percent of the eligible tax reverted property specific tax that for five years is distributed to the authority that sold or otherwise conveyed the property under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774, which sale or conveyance caused the property to be eligible tax reverted property, as described in Public Act 260 of 2003 (211.1025).



MICHIGAN STRATEGIC FUND

MSF approval must typically be the lesser of up to one year prior to the local approval of a brownfield plan or the start date which the municipality approves for eligible activity cost expenditures. Costs incurred more than one year prior to the approval of a local brownfield plan will not be considered as part of the recommendation unless there are special considerations that justify the request or those cost were incurred by a public entity in which case they may be considered for reimbursement.

Tax Increment Revenue (TIR) Initial Capture Date and Capture Period

The beginning date of TIR capture does not need to coincide with the first year that the taxable value increases but the capture period cannot exceed 30 years and the end date of capture can be no later than 35 years following the eligible property being approved in the Plan. In the case of a brownfield plan that was approved without tax capture (a Michigan Business Tax (MBT) only plan), that plan may be amended to begin capture after 5 years from the original approval date, but the start date of capture must be identified to begin within 5 years of the approval of the brownfield plan and capture may not exceed 30 years from the start date.

Proportionality of State and Local Taxes

Unless otherwise explicitly stated by the MSF in the Act 381 work plan approval, capture of state and local taxes to reimburse the cost of eligible activities must be relatively proportional to the ratio of state to local taxes being levied at the time such approval is granted. Alternatively, the local support could be achieved through another local source such as an abatement, or other approved local contribution rather than the local brownfield tax increment revenue.

If a BRA decides to pass through a percentage of captured taxes to taxing jurisdictions, then state support using the proportionality test will be applied in the same percentage. For example, if the BRA utilizes 90 percent of local taxes for reimbursement of eligible activities, then only 90 percent of state taxes can be utilized for the same and 10 percent is passed through to the taxing jurisdictions including the state.

Interest

The MSF may support up to [5 percent simple interest](#) on a project based on the following criteria:

- Interest will be based on the cost of principal eligible activities including demolition, infrastructure improvements, site preparation and lead, asbestos and mold abatement.
- The project must demonstrate financial need as determined by MEDC staff's analysis of project financing, including the layering of state and local incentives.
- Interest must be supported by the local BRA and the interest rate must be included in the approved brownfield plan.
- Interest will be calculated based on the number of years required to fully reimburse non-environmental and/or environmental activities as reflected in the Act 381 work plan.

The MSF reserves the right to approve an interest rate and/or interest amount lower than what is requested in the work plan.

Responsible Party

Act 381 prohibits School Tax capture to be used for response activities that benefit a party responsible for an activity causing a release under section 20126 or 21323a of the NREPA. Act 381 contains an exception for municipalities in regards to landfills only. Act 381 does not prohibit use of School Taxes for non-environmental activities. The MSF may consider work plans that include non-environmental activities that benefit a responsible party, if the response activities are also being addressed outside of the Act 381 work plan. MEDC staff will coordinate with EGLE when reviewing the project.

Contingency

The MSF may support up to a maximum of fifteen percent contingency for unforeseen circumstances and cost overruns



MICHIGAN STRATEGIC FUND

on the estimated cost of the proposed activities. The contingency shall not be calculated on the costs for brownfield plan/work plan preparation or implementation, interest, or for activities conducted prior to Act 381 work plan submittal.