TRANSFORMATIONAL BROWNFIELD PLANS

WHAT IS IT

The Brownfield Redevelopment Financing Act, 1996 Public Act (PA) 381, as amended (Act 381), effective July 24, 2017, incorporates Transformational Brownfield Plans (TBP), which affords developers the opportunity to capture a portion of specific incremental taxes generated from large-scale transformational projects for a specified time period.

A TBP is defined as a Brownfield Plan that, among other requirements, will have a transformational impact on local economic development and community revitalization based on the extent of brownfield redevelopment, growth in population, commercial activity, and employment that will result from the plan. The plan must be a mixed-use development project containing a combination of retail, office, residential, or hotel uses or a development in a municipality that is not a county and that has a population of less than 25,000 that utilizes one of the listed uses and has had the mixed-use requirement waived by the MSF. Minimum capital investment thresholds are required depending on the population of the municipality in which the development is proposed.

The Michigan Strategic Fund (MSF) is the project-authorizing entity and can approve no more than five TBPs in a calendar year statewide for the duration of the program, which ends December 31, 2027, unless unused approval authority for prior years has carried over. An equitable geographic distribution of plans is required, balancing the needs of municipalities of different sizes and geographic areas. The statute requires that not less than 33% and not more than 38% of TBPs will be located in cities, villages, and townships with a population of less than 100,000. Furthermore, not less than 33% and not more than 38% of TBPs will be located in cities, villages, and townships with populations of not less than 100,000 and not more than 225,000.

WHO IS ELIGIBLE

A project may be located in any community and generally must involve a minimum level of capital investment based on the community's population, as follows:

Population	Investment
Greater than or equal to 600,000	$500,000,000
150,000 - 599,999	$100,000,000
100,000 - 149,999	$75,000,000
50,000 - 99,999	$50,000,000
25,000 - 49,999	$25,000,000
Less than 25,000	$15,000,000

HOW DOES IT WORK

A TBP is a type of Brownfield Plan under Act 381 that allows for construction period sales and use tax exemption and five sources of tax revenues associated with a project. The five kinds of revenues from incremental tax capture are as follows: (1) Construction Period Tax Capture; (2) Property Tax Capture; (3) Income Tax Capture; (4) Withholding Tax Capture; and (5) Sales and Use Tax Capture. These tax increment revenues can be used in financing a wide array of eligible activities, including "any demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property, including infrastructure improvements that directly benefit eligible property." Income Tax Capture, Withholding Tax Capture, and Sales and Use Tax Capture are limited to up to 20 years. Capture of incremental property tax revenue is limited to the cost of approved eligible activities up to 30 years, as Act 381 currently allows.

TBPs proposing to use property tax increment, construction period tax capture, withholding tax capture, sales and use tax capture, and income tax capture revenues may be approved for an amount only up to that necessary to fill a demonstrated financing gap and for the redevelopment project to be economically viable. The MSF will use standardized underwriting criteria for determining economic viability. MSF may not approve any plan, regardless of size of capture, unless it determines that the plan would not occur but for the TBP incentive.

TBP CONSIDERATION PROCESS

TBP projects require the approval of the Brownfield Redevelopment Authority (BRA), the local unit of government, and the MSF. The governing body of the local municipality that created the BRA must make an initial determination as to whether a TBP constitutes a public purpose. If it finds a public purpose, the governing body can approve, reject, or modify the plan; however, prior to the BRA's adoption of a TBP, it is required that a draft be provided to the Michigan Economic Development Corporation (MEDC) for comment.

It is expected that the BRA will engage early with representatives of the MEDC. MEDC's Regional Prosperity Community Development Managers (CDM) should be the first point of contact. CDMs will initially scope the project and issue a letter of interest outlining agency support. An underwriting analysis will be conducted of all projects. For projects that propose to use greater than $10 million in withholding tax capture, income tax capture, and sales and use tax capture revenues in any one year, an analysis will be completed by an independent, third party and will be paid for by the development team. In addition, any TBP proposal requesting approval of sales and use tax capture is required to undergo an MSF-contracted 3rd party analysis of the sales and use tax capture estimates, which will be paid for by the developer.

Once there has been an evaluation and determination of support by the MEDC, and if the governing body approves the TBP, the final plan is sent to the MSF. The MSF must approve or reject the TBP using the same criteria as above within 90 days of receipt of an administratively complete TBP with a completed financial analysis.