



Act 381 Work Plan Guidance

Pursuant to the
Brownfield Redevelopment Financing Act,
1996 PA 381, as amended
Gretchen Whitmer, Governor



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Contents

ACRONYMS OR DEFINITIONS.....	4
INTRODUCTION.....	5
AGENCY CONTACTS	5
Part 1 – Eligibility and General Program Guidance	6
Eligible Property	6
Eligible Activities.....	9
Costs Incurred Prior to Work Plan Approval.....	9
General Ineligible Activities/Expenses.....	9
General EGLE Program Guidance	9
General MSF Program Guidance	9
General MSHDA Program Guidance.....	10
Part 2 - Tax Increment Financing	11
Initial Taxable Value and Increment	11
Tax Increment Revenue Initial Capture Date and Capture Period.....	11
Tax Increment Revenue and Applicable Taxes	11
Proportionality of School and Local Taxes.....	12
Tax Increment Revenue and Other Incentives	12
Part 3 - Liability	13
Responsible Party Prohibitions for Environmental Activities	13
Part 4 - Local Brownfield Revolving Fund.....	14
Part 5 – Work Plans or Combined Brownfield Plans	15
Submission.....	15
Determination/Review	16
Agency Response.....	16
Multiple Work Plans/Amendments	16
Fifteen Percent (15%) Contingency	17
Reasonable Costs.....	17
Administrative Costs	17
State Brownfield Redevelopment Fund.....	17
Development or Reimbursement Agreements.....	18
Part 6 - Brownfield Annual Reporting	19
Part 7 – Eligible Activities Exempt from State Approval	20
Exempt Activities as described in Act 381	20
Part 8 – EGLE Eligible Activities.....	22

EGL E Eligible Activities (aka Department Specific Activities).....	22
Part 9 – MSF Non-Environmental Eligible Activities	25
Activity Available Statewide	26
Activity Available to Qualified Local Governmental Units and Land Bank controlled properties Only	28
Ineligible Site Preparation Activities	39
Miscellaneous – Activity Available Statewide.....	40
Ineligible Activities/Expenses	42
Part 10 MSHDA Housing Activities Guidance	43
Part 11 – Schedule 1 – Eligible Activities Table	54

ACRONYMS OR DEFINITIONS

AMI – Area Median Income
BRA – Brownfield Redevelopment Authority
CIA – Corridor Improvement Authority
DDA – Downtown Development Authority
EGLE – Michigan Department of Environment, Great Lakes, and Energy
LBFTA – Land Bank Fast Track Authority
LBRF – Local Brownfield Revolving Fund
LID – Low Impact Design
MBT – Michigan Business Tax
MCRP – Michigan Community Revitalization Program
MCL – Michigan Compiled Laws
MEDC – Michigan Economic Development Corporation
MSF – Michigan Strategic Fund
MSHDA – Michigan State Housing Development Authority
NREPA – Natural Resources and Environmental Protection Act, 1994 PA 451, as amended
Part 201- Part 201 Environmental Remediation, of NREPA
Part 211 – Part 211, Underground Storage Tank Regulations, of NREPA
Part 213- Part 213, Leaking Underground Storage Tanks, of NREPA
P.E. – Professional Engineer
QLGU – Qualified Local Governmental Unit
SBRF – State Brownfield Redevelopment Fund
SET – State Education Tax
TIF – Tax Increment Financing
TIR – Tax Increment Revenues
TRA – Targeted Redevelopment Area

“Area median income” means the median income for the area as determined under Section 8 of the United States Housing Act of 1937, 42 USC 1437f, adjusted for family size.

“State tax increment revenue” (also referred to as “school tax increment revenue”) includes state education tax plus taxes levied for school operating purposes. It does not include intermediate school district [ISD] tax which is considered a local tax.

“Plans” shall be used in this document to reference both an Act 381 Work Plan or Combined Brownfield Plan submitted to the appropriate state agency for approval.

INTRODUCTION

The Brownfield Redevelopment Financing Act, 1996 Public Act (PA) 381, as amended (Act 381), ([Michigan Compiled Law \[MCL\] 125.2651 through 125.2672](#)), authorizes Brownfield Redevelopment Authorities (BRAs) to recommend approval of local Brownfield Plans and submit Act 381 Work Plans (Work Plans) that help revitalize, redevelop, and reuse eligible properties to the state for approval. Under Act 381, incremental revenue from taxes levied for school operating purposes (*includes state education tax [SET] and taxes levied for school operating purposes only*) and local tax increment revenues can be captured and used to reduce the burden of brownfield-related costs when redeveloping affected properties through a process called tax increment financing (TIF).

Act 381 prescribes the powers and duties of BRAs and certain powers and duties of the Michigan Department of Environment, Great Lakes, and Energy (EGLE), the Michigan Strategic Fund (MSF), and the Michigan State Housing Development Authority (MSHDA). The Michigan Economic Development Corporation (MEDC) serves as staff support to the MSF. This guidance is meant to help clarify parts of Act 381 and detail the activities that may be considered for state support on eligible properties.

Act 381 Brownfield Program Guidelines were adopted by the Michigan Strategic Fund Board effective March 23, 2021. This Guidelines document identifies the processes, considerations, and policies that the MSF Board and its Delegates will take into account when reviewing projects requesting the use of state tax capture for MSF Non-Environmental eligible activities.

Please refer to the MEDC website for template 381 Work Plan documents including an example work plan table of contents, instructions for each section of the work plan, and the required TIF table format.

This guidance should not be relied upon as a substitute for a thorough reading and understanding of the statute. Users should contact their legal counsel regarding any questions with Act 381.

AGENCY CONTACTS

EGLE related brownfield questions should be addressed to: EGLE-brownfields@michigan.gov or (517) 281-8253.

MSF related brownfield questions should be addressed to: brownfield@michigan.org or (517) 897-3418.

MSHDA housing-related brownfield questions should be addressed to: MSHDA-TIF@michigan.gov or 517-335-9802. Please see the Frequently Asked Questions at <https://www.michigan.gov/mshda/developers/tax-increment-financing-tif>.

Additional information may be available at each agency's website, including optional incentive programs related to Act 381 projects.

All brownfield templates referenced in this document can be found [here](#).

Part 1 – Eligibility and General Program Guidance

Eligible Property

Eligible property must be included in a Brownfield Plan and qualify as either a facility, functionally obsolete, blighted, historic resource, transit-oriented property/development, adjacent and contiguous, a tax reverted property under the control of a land bank fast track authority, in a targeted redevelopment area, or a housing property as defined in Act 381 and described below.

For MSF consideration eligible property must be a previously developed property. Any property that is qualifying as housing property, must meet all MSHDA Housing Activities requirements per Section 10.

“Properties” are tax identification parcels that have corresponding legal descriptions.

“Facility” including a facility, site, or property as defined in Part 201 and Part 213.

If facility status is being used to determine property eligibility, sufficient evidence of facility status must be submitted for EGLE to confirm the property is a facility.

"Functionally obsolete" means that the property is unable to be used to adequately perform the function for which it was intended, due to a substantial loss in value resulting from overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property, or the property's relationship with other surrounding property.

"Blighted" means property that meets any of the following criteria as determined by the governing body:

- (i) Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance
- (ii) Is an attractive nuisance to children because of physical condition, use, or occupancy
- (iii) Is a fire hazard or is otherwise dangerous to the safety of persons or property
- (iv) Has had utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use
- (v) Is tax reverted property owned by a [qualified local governmental unit](#) (QLGU), by a county, or by the state of Michigan. Tax-reverted property that is sold, leased, or transferred after the property is in a Brownfield Plan is still considered blighted property for purposes of Act 381
- (vi) Is owned or under the control of a land bank fast track authority (LBFTA) under the Land Bank Fast Track Act, 2003 PA 258, as amended (MCL 124.751 through 124.774), whether or not it is located within a QLGU. Property that is sold, leased or transferred by a LBFTA after the property is in a Brownfield Plan is still considered blighted property for purposes of this Act

*The MSF **will not** support school tax capture for projects that qualify as blighted due to being owned or under the control of a LBFTA, if any of the following determinations are made by MEDC staff:*

- a. 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.*

- b. *The purpose of the acquisition of property to include in a Brownfield Plan is to artificially decrease the initial taxable value of potentially eligible property to zero.*
- c. *The purpose of the acquisition of property to include in a Brownfield Plan is to allow a jurisdiction that is a non-QLGU to access eligible activities otherwise reserved for a QLGU, as defined within Act 381.*
- d. *The purpose of acquisition of the property to include in a Brownfield Plan is to qualify a non-brownfield property as a brownfield.*

However, 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 5/50 capture for those properties and one or more of the following apply:

- a. *The project has state or federal mortgages or regulatory agreements in place for affordable or attainable housing.*
- b. *The project is preserving a historic resource.*
- c. *The 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.*

(vii) Has substantial subsurface demolition debris buried on site so that the property is unfit for its intended use.

“Historic Resource” means a publicly- or privately-owned historic building, structure, site, object, feature or open space (either man-made or natural), individually listed or located within and contributing to a historic district designated by the National Register of Historic Places, the State Register of Historic Sites, or a local government acting under the Local Historic Districts Act, 1970 PA 169, MCL 399.201 through 399.215.

“Housing property” means property for which eligible activities are identified under a brownfield plan, including personal property located on the property, to the extent included in the brownfield plan, and 1 or both of the following:

- (i) A property on which 1 or more units of residential housing are proposed to be constructed, rehabilitated or otherwise designed to be used as dwelling.
- (ii) One or more units of residential housing proposed to be constructed or rehabilitated and located in a mixed-use project.

“Subsidized” housing for purposes of MSHDA’s Housing TIF analysis means:

Property that receives federal, state, local, or tribal assistance that encourages low or moderate-income housing development, which will be defined as being affordable to persons at 120% AMI or lower; the assistance accrues to the property owner; and is subject to a development agreement or reimbursement agreement between the municipality or authority and an owner or developer of eligible property that stipulates price and income monitoring for residential units is required before such tax increment may be used for housing development activities.

“Transit-oriented property” means property that houses a transit station in a manner that promotes transit ridership or passenger rail use.

“Transit-oriented development” means 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)” means between at least 40 and no more than 500 contiguous parcels located within a QLGU and designated as a TRA by resolution of the governing body and approved by the MSF.

A Brownfield Plan must be developed for a TRA. The TRA designation must be approved by both the local jurisdiction and the MSF, even if only local taxes will be captured. No more than five TRAs may be approved per year across the state, and there is a maximum of two per jurisdiction, per year.

The TRA Brownfield Plan should fully describe the goals of the project and why the area 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:

- a. Capture on all parcels must begin at the same time, and within five years of inclusion in the Brownfield Plan.*
- b. Parcels included in a TRA designation must have identified eligible activities occurring on or supporting the eligible property.*
- c. 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.*
- d. Eligible property included in the TRA designation cannot be contributing available capture to another TIF authority.*

“Adjacent and/or contiguous” includes parcels that are adjacent and/or contiguous to eligible property, if development of the adjacent and/or contiguous parcels is estimated to increase the captured taxable value of the eligible property.

Publicly owned streets, alleyways, waterways, public or private easements, or similar divisions crossing or separating parcels may be ignored when determining adjacent and/or contiguous status., as long as the divided or separated parcel is under the same ownership as the qualifying property, is within reasonable distance, and there are no major obstructions between the parcels.

For EGLE projects, property adjacent to a facility may be included in a Brownfield Plan and subsequent Act 381 Work Plan, but eligible activities needing EGLE approval can only occur on the parcels confirmed to be facilities.

Eligible Activities

Eligible Activities are actions that are taken to redevelop a brownfield property, the costs for which are eligible for reimbursement via TIF. Please consult with EGLE, MEDC and/or MSHDA staff prior to incurring costs so all parties clearly understand which activities are potentially eligible, and the timeframe for incurring the costs.

The MSF approves eligible activities based on QLGU (or Core Community) status. Please see the detailed list [here](#) to determine whether your municipality is a QLGU.

Refer to EGLE, MSF, and MSHDA Eligible Activities located in Parts 7 – 10 of this document for further guidance relative to each agency.

Costs Incurred Prior to Work Plan Approval

Costs incurred for EGLE eligible activities prior to Work Plan or Combined Brownfield Plan approval are not eligible for reimbursement with State Tax capture with the exception of activities exempt from EGLE approval (Section 13b(8)) and unanticipated response activities as outlined in Section 13b(9)(a).

Any costs incurred for MSF or MSHDA 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 and MSHDA understand that there are often practical reasons that some non-environmental activities may be incurred prior to completion and approval of the brownfield plan and the Act 381 Work Plan. Eligible activity costs requesting reimbursement may be incurred starting the earlier of one year prior to the local approval of the 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 Brownfield Plan will not be considered as part of the recommendation unless there are special considerations that justify the request or those costs were incurred by a public entity, in which case they may be considered for reimbursement.

At the discretion of the local unit of government, eligible activities conducted prior to approval of the Brownfield Plan, Work Plan, or Combined Brownfield Plan may be reimbursed with local TIR.

General Ineligible Activities/Expenses

These activities and expenses are not eligible for reimbursement with state taxes:

- Site improvements
- Land acquisition (except as otherwise allowed under the Act)
- Interest on Brownfield or Work Plan preparation and/or implementation costs
- Taxes (except sales and use tax)
- Third party damages
- Insurance (except environmental insurance as provided in Act 381 Section 2(q))

General EGLE Program Guidance

Additional information regarding the EGLE Brownfield program can be found at the [EGLE Brownfield Program Website](#). Refer to [EGLE Brownfield Eligible Activity Resource](#) for additional information regarding the minimum level of detail necessary to justify eligible activities and their associated expenses

General MSF Program Guidance

These program elements occur occasionally in projects reviewed for MSF support and this guidance is intended to clarify common questions.

Developer-occupied residential space: If a multi-unit residential project includes investment into a residential unit that will be occupied by the project's owner/developer/sponsor, the investment into that unit will be considered for financial assistance on a case-by-case basis. If considered for assistance, such assistance will be equitable in relation to the investment in other units of the development.

White-box commercial space: For Work Plans or Combined Brownfield Plans requesting MSF support, "white box" is defined as unfinished interior space in a commercial building with the following aspects complete: 1) Code required bathrooms; 2) Envelope wall coverings prepped for painting; and 3) Finished ceilings, flooring, electrical fixtures, plumbing fixtures, and functional HVAC and sprinkler systems. Interior space should be able to obtain a certificate of occupancy.

Relocation of Existing Residents: The Work Plan should confirm whether residents are displaced as a result of the implementation of the plan. If residents are displaced, an explanation that satisfies the requirements of Act 381 Section 13(i-k) must be added to the Work Plan.

General MSHDA Program Guidance

MSHDA is required under the statute to determine whether the costs associated with certain individual eligible activities are reasonable. No additional environmental review requirements are applicable solely due to submission of an Act 381 Work Plan to MSHDA. MSHDA has developed Potential Rent Loss (PRL) and Potential Development Loss (PDL) Calculations plus a Total Housing Subsidy (THS) Calculation to establish the reasonableness of certain housing activities for which tax capture is being planned. Reasonableness will be determined based on this review in conjunction with any narrative information that is submitted by the development team. Please see that [MSHDA TIF website](#) for additional information.

Local BRAs may adopt other financing gap models that differ from MSHDA's calculations based on local market conditions. Upon request MSDHA will review alternate models prior to submission of an Act 381 Work Plan by a BRA.

Part 2 - Tax Increment Financing

Initial Taxable Value and Increment

Cleanup and redevelopment of a brownfield property will increase its taxable value, and therefore will increase the property tax revenue generated from the property. The increased tax revenues above those generated by the initial taxable value, are known as Tax Increment Revenue (TIR), or more commonly as captured taxes. Taxes captured under Act 381 can reimburse eligible environmental and non-environmental activity costs identified in an approved Brownfield Plan and/or Work Plan or Combined Brownfield Plan. Taxing jurisdictions continue to receive base year tax revenues until the Brownfield Plan ends, at which time the TIR is distributed to the taxing jurisdictions along with the pre-development tax revenue.

The property's initial taxable value (or "base year") can be set to either the year in which the Brownfield Plan is approved, or the next assessment year following approval of the Brownfield Plan.

If TIR is not generated for three consecutive years due to declines in assessed (taxable) value, the initial assessed (taxable) value may be lowered through a Brownfield Plan amendment once during the term of the Plan.

Tax Increment Revenue Initial Capture Date and Capture Period

The beginning date of TIR capture must be identified in the Brownfield Plan and does not need to coincide with the first year that the taxable value increases. 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. If the actual beginning date of tax capture is greater than five years from the date of the resolution adopting the Brownfield Plan, the maximum number of years of capture will decrease accordingly. The beginning date of capture may not be amended after the jurisdiction has begun to reimburse costs on the eligible property.

An eligible property that was not previously included in the Brownfield Plan can be added via an amendment. TIR capture can begin up to five years from the date that the eligible property is added to the amended Brownfield Plan. TIR can be captured from the eligible properties in the original plan for the originally-approved number of years. The maximum number of years of TIR capture is still capped at 30 years.

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.

For Work Plans or Combined Plans containing EGLE, MSF, and/or MSHDA eligible activities, please provide a TIF table that identifies the reimbursement of environmental and non-environmental costs separately. The [TIF table template](#) must be used for EGLE, MSF and/or MSHDA approvals.

Tax Increment Revenue and Applicable Taxes

TIR from all ad valorem, personal property, and specific taxes, including taxes levied for school operating purposes, are eligible for capture with local approval and, as applicable under the Act, approval from EGLE, MSF, and/or MSHDA with the exception of taxes levied to pay off specific obligations such as bonds and/or debt which are typically not available for capture. Neither ad valorem special assessments nor

State Essential Services Assessments are available for capture under a Brownfield Plan. The intermediate school district tax is not a school operating tax; under Act 381 the ISD tax is considered a local tax. A school sinking fund millage is not a school operating tax; under Act 381 a school sinking fund millage is considered a local tax.

If a new millage is passed by the jurisdiction after the Brownfield Plan has been approved, that new millage is added to, and captured as, TIR.

The amount of allowable school tax capture is limited to the school tax portion of the actual cost of eligible activities approved by EGLE, MSF, and/or MSHDA, except as provided by Act 381 Section 8 for deposit into the local brownfield revolving fund (LBRF).

Proportionality of School and Local Taxes

Unless otherwise explicitly stated by EGLE, MSF, and/or MSHDA in the Act 381 Work Plan or Combined Brownfield 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. If the local and state contributions are not proportional per the guidance above, the local support could instead 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 form of local support other than local brownfield tax increment revenue is to be used, the alternate contribution must be described in the Act 381 Work Plan or Combined Plan and appropriately reflected in associated tables.

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.

Tax Increment Revenue and Other Incentives

Developers may not be reimbursed with TIR for any activities paid with EGLE or Michigan Community Revitalization Program (MCRP) grants, MSHDA grants, or Brownfield MBT credits, but TIR may be used to repay loans. Similarly, TIR should not be utilized to reimburse a developer for costs paid for by other federal, state, or local grants. When using multiple incentives to complete a project, EGLE, MSF, and/or MSHDA should be consulted to determine whether the incentives can be utilized together. If both brownfield TIR and MCRP or MSHDA grants are available, brownfield TIR reimbursement should be requested for costs that could fall under either funding source (e.g., demolition or lead and asbestos abatement).

Part 3 - Liability

Responsible Party Prohibitions for Environmental Activities

Under section 13b(10) of Act 381 “An authority shall not use taxes levied for school operating purposes captured from eligible property for response activities that benefit a party responsible for an activity causing a release under section 20126 or 21323a of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.20126 and 324.21323a, except that a municipality that established the authority may use taxes levied for school operating purposes captured from eligible property for response activities associated with a landfill.”

BRAs are obligated to determine whether a developer or person seeking reimbursement is a party responsible for causing the contamination and assuring that plans submitted for EGLE review do not propose activities that would benefit someone who was a party responsible for an activity causing a release. The state or BRA may take legal action to recover TIR used for response activities by responsible parties. If environmental liability cannot be determined by the BRA, please contact your [EGLE Brownfield Coordinator](#) for assistance prior to preparation of a Brownfield Plan or submission of a Work Plan.

Act 381 does not prohibit use of State Taxes for non-environmental activities. The MSF and/or MSHDA may consider Act 381 Work Plans or Combined Brownfield 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 or Combined Brownfield Plan. MEDC and MSHDA staff will coordinate with EGLE when reviewing such projects.

Part 4 - Local Brownfield Revolving Fund

According to Act 381 Section 8, a BRA may establish a Local Brownfield Revolving Fund (LBRF) and approve TIR capture in excess of eligible costs, as follows:

- Excess local TIR captured for the LBRF cannot exceed the total cost of eligible activities approved in the Brownfield Plan.
- Excess state TIR captured for the LBRF cannot exceed the total cost of eligible Department Specific activities in an approved Work Plan or Combined Brownfield Plan.
- Total excess TIR captured from both state and local sources cannot exceed the total costs of eligible activities approved in the Brownfield Plan.
- Capture for deposit into the LBRF may occur during the course of the plan reimbursement, for an additional five years post reimbursement, or both; up to the statutory limits of time and funding.

Act 381 does not expressly prohibit a BRA from establishing an LBRF after a Brownfield Plan has been adopted. However, if tax capture has begun or is completed for a specific project, then the BRA should amend the Brownfield Plan to capture TIR for an additional five years or up to the statutory limits of funding for the LBRF.

The BRA may use the LBRF to pay the costs of eligible activities on property that is located within the municipality and meets at least one of the conditions under the statutory definition of eligible property in Section 2(p) and to pay the costs of activities outlined in Section 13b(8) on prospective properties.

Part 5 – Work Plans or Combined Brownfield Plans

The Work Plan is a document that describes the proposed project, the specific eligible activities that will be undertaken to alleviate brownfield conditions, their costs, and the project time frame. If State TIR will be used to reimburse the cost of certain eligible activities, EGLE, the MSF, and/or MSHDA must approve a Work Plan.

A Combined Brownfield Plan contains all of the statutory information required in a Brownfield Plan and a Work Plan. The intention of a Combined Brownfield Plan is to reduce review and approval time by combining the local and state review and approval process. Like a Work Plan, the Combined Brownfield Plan is a document that describes the proposed project, the specific eligible activities that will be undertaken to alleviate brownfield conditions, their costs, and the project time frame in addition to those requirements of a Brownfield Plan. If a Combined Brownfield Plan intends to use state TIR to reimburse the cost of certain environmental activities, non-environmental activities, or housing activities, EGLE, then MSF, and/or MSHDA approval is required.

The MSF Chairperson or delegates may approve a Work Plan, or Combined Brownfield Plan, with capture of state TIR for non-environmental, non-housing development eligible activities of \$1,000,000 or less, unless combined with any other MSF incentive where the total approved award exceeds \$1,000,000, then the project would go to the full MSF Board for approval.

The BRA must notify EGLE, MSF, and/or MSHDA in writing at least 30 days prior to the public hearing that the BRA is seeking approval of the Combined Brownfield Plan. It is in the projects best interest to introduce the Combined Brownfield Plan to EGLE, MSF, and/or MSHDA at the same time it is introduced to the BRA in order to alleviate unnecessary delays, amendments, and/or subsequent local and state approvals to the Combined Brownfield Plan.

Submission

Prior to submission of a Work Plan or Combined Brownfield Plan to EGLE, MSF, and/or MSHDA, it is strongly recommended that the appropriate agency representatives be contacted to discuss the project and a draft be provided to the appropriate agency for review. This will help save time on preparation of the Plan, prevent inclusion of ineligible activities, and reduce agency review time.

- For Work Plans or Combined Brownfield Plans that propose MSF non-environmental activities, MEDC [Community Development Managers](#) (CDM) and/or [Business Development Managers](#) (BDM) should be the first point of contact. To obtain approval for a project with MSF costs, CD or BD will scope the project and issue a letter of interest outlining agency support.
- For Work Plans that propose EGLE eligible activities [EGLE Brownfield Coordinators](#) should be the first point of contact.
- For Plans that involve housing, MSHDA's Rental Development unit should be the first point of contact, for discussion and input prior to formal submission. [MSHDA staff contacts](#)

The Work Plan or Combined Brownfield Plan must be submitted by the BRA to EGLE, MSF, and/or MSHDA. The Work Plan must include a copy of the Brownfield Plan as approved via resolution by the governing body of the municipality and include a copy of the resolution. The Combined Brownfield Plan must include a copy of the resolution approved by the governing body of the municipality. Work Plans or Combined Brownfield Plans submitted to EGLE and Housing Plans submitted to MSHDA must be accompanied by a signed transmittal letter from the BRA or local government representative. For MSF Work Plans or

Combined Brownfield Plans, please wait for staff to request the transmittal letter. For projects with a combination of EGLE, MSF, and/or MSHDA eligible activities, one Work Plan or Combined Brownfield Plan should be submitted concurrently to all relevant agencies.

MSHDA housing plans should be submitted via the MSHDA SharePoint portal at the [MSHDA TIF website](#).

For eligible activities requiring EGLE review send an electronic copy of the documents to the EGLE-brownfields@michigan.gov and to your [Brownfield Coordinator](#). Hard copy documents will not be accepted.

Determination/Review

Act 381 specifies review/response periods depending on the type of eligible activities and which agency is completing the review. The official receipt date is the date an administratively complete Work Plan or Combined Brownfield Plan is received and confirmed complete by EGLE, the MEDC, and/or MSHDA, as applicable.

MEDC staff have sixty (60) days from the official receipt of a request for approval of a Work Plan or Combined Brownfield Plan to review MSF eligible activities or within 7 days following the first meeting of the board after the 60-day period following receipt of the request for approval, whichever is later.

MSHDA staff have sixty (60) days from the official receipt date of a completed Plan to review MSHDA eligible housing activities in a Work Plan. If a Work Plan includes the request for a waiver from MSHDA brownfield parameters, the Plan is not considered administratively complete until the waiver request has been considered by the MSHDA Board of Directors.

EGLE staff have sixty (60) days to review EGLE eligible activities in a Work Plan or Combined Brownfield Plan. If additional information is requested by EGLE, staff have forty-five (45) days to review the additional information.

EGLE staff will review the Work Plan according to Act 381 Section 15(3) once it is determined to be administratively complete, and determine:

- Whether some or all of the activities are EGLE activities
- Whether the due care activities and response activities are protective of the public health, safety, and welfare and the environment
- Whether the estimated costs for the activities as a whole are reasonable

Agency Response

The statute requires a written response regarding Work Plan or Combined Brownfield Plan acceptability. You will receive separate responses from each agency regarding their review and determination. If a response is not received from the appropriate agency within these timeframes, the Work Plan is considered approved by the agency that has not responded.

Multiple Work Plans/Amendments

A BRA is not required to re-submit the Brownfield Plan or basic project information required by Act 381 Section 15(1)(b-e) for subsequent Work Plans or amended Work Plan(s) if the Brownfield Plan or basic project information remains unchanged. If a change in the scope of work or basic project information requires changes to the Brownfield Plan, a revised Work Plan must be submitted for agency review. This information also applies to Combined Brownfield Plans. Regardless, for subsequent or amended plans a

timeline of previous approvals must be summarized including plans approved, dates of approval, and funding approved inclusive of approvals from other agencies or local only.

A BRA may amend the Brownfield Plan or develop a new Work Plan for additional eligible activities. The BRA can seek approval of state TIR from EGLE, MSF, or MSHDA for those activities and their costs, or approve the additional costs and pay for them with only local taxes. For Combined Brownfield Plans, a formal amendment by the Authority and the local governing body will require a formal amendment by EGLE, MSF, and/or MSHDA if state TIR will be used to reimburse the cost of amended activities.

Reasonable Costs

Act 381 requires EGLE, MSF, and MSHDA to determine whether estimated costs for the proposed activities are reasonable. Proposed activities may be denied on the basis of unreasonably high costs. The governing body of the municipality responsible for approving the Brownfield Plan is expected to ensure the costs in the Brownfield Plan and Work Plan or Combined Brownfield Plan are reasonable, and provide justification for the costs to EGLE, MSF, and/or MSHDA. Please note, only actual costs incurred for eligible activities can be reimbursed per the approved overall amounts identified for each agency in the Plan.

Please see the [EGLE Brownfield Eligible Activity Resource](#) for additional information regarding the minimum level of detail necessary to justify EGLE eligible activities and their associated expenses.

Please see the MSHDA provisions of the Brownfield Plan Template and MSHDA's [Potential Rent Loss \(PRL\) and Potential Development Loss \(PDL\) Calculations plus Total Housing Subsidy \(THS\) summary](#) document at the MSHDA TIF website. The BRA must provide MSHDA with a reasonable formula and/or rationale.

Fifteen Percent (15%) Contingency

A maximum fifteen percent (15%) contingency may be added to the estimated cost of the proposed activities. Contingency should not be calculated on following costs:

- Brownfield Plan, Work Plan or Combined Brownfield Plan preparation or implementation,
- Interest
- Activities conducted prior to Work Plan or Combined Brownfield Plan submittal.

EGLE, MSF, and MSHDA will approve the fifteen percent contingency only on the approved eligible activities. Contingency can only be used to cover extra costs of approved activities. Contingency shall not be used for activities not identified and approved in a Work Plan, Combined Brownfield Plan, or local only Brownfield Plan.

Administrative Costs

The BRA's administrative and operating expenses may be reimbursed with local TIR only. Agency approval for this reimbursement is not required and administrative costs do not need to be included in a Work Plan.

State Brownfield Redevelopment Fund

Act 381 Section 13b(14) requires a contribution to the State Brownfield Revolving Fund (SBRF) in an amount equivalent to 50% of the SET levied on each eligible property. The contribution shall continue throughout the period of school TIR capture, including the LBRF capture period, up to the 25-year limit on capture of the SBRF.

The SET due to the SBRF will be determined from data reported annually by the BRA to the MEDC via an online portal. The MEDC will generate an invoice upon data submittal and verification. Please do not

submit the SET contribution until the BRA receives the invoice from the MEDC.

Development or Reimbursement Agreements

A development or reimbursement agreement is a legal document that describes the terms of tax capture and TIR reimbursement to the developer by the BRA or municipality. EGLE, the MSF, and MSHDA are not involved in the reimbursement process. An executed development or reimbursement agreement is required for MSF Work Plan consideration. Adequate reimbursement records should be maintained for all TIR reimbursements.

Part 6 - Brownfield Annual Reporting

BRAs are required by law to annually report Act 381 Brownfield TIR capture to the MEDC. Reports are due no later than August 31 for the previous year via an online portal. Please note that jurisdictions are required to report for all approved Brownfield Plans including those with “local only” and state and local TIR capture.

The BRA is responsible for completing all appropriate information in the portal in order to be compliant, even when it has no TIR capture to report. EGLE annually performs data verification on a random selection of state TIR projects.

Please be aware that failure to report by the deadline may result in the MSF, MSHDA, and EGLE withholding financial support from the jurisdiction’s future projects.

Annual reporting information can be found at this link <http://www.michiganbusiness.org/legislative-reports/#section6>.

Annual reporting instruction videos can be found on the MEDC Brownfield Tax Increment Financing Act Program page at this link <https://www.miplace.org/programs/brownfield-tax-increment-financing/>

Part 7 – Eligible Activities Exempt from State Approval

According to Act 381 Section 13b(7) and (8), state TIR can be used for the following activities without approval by EGLE, MSHDA, and/or MSF.

<i>Exempt Activities as described in Act 381</i>	<i>Guidance</i>
Site investigation activities to conduct a Baseline Environmental Assessments (BEA) and to evaluate compliance with due care	<p>Potential new owners or operators are obligated to conduct all all-appropriate inquiry (AAI) (commonly referred to as environmental due diligence) to evaluate the potential presence of environmental contamination on a piece of property. This typically includes Phase I and Phase II Environmental Site Assessments (ESAs) to determine if the property is contaminated. Additional investigations may be required to determine the extent of contamination and due care obligations necessary to make the property safe for reuse.</p> <p>Please note that adequate characterization of on-site contamination is necessary to determine the reasonableness of EGLE eligible activities.</p>
Baseline Environmental Assessments (BEAs)	<p>A properly conducted and submitted BEA documents the presence of existing contamination and provides certain liability protections for new owners and operators of contaminated property. A BEA is a document that describes the results of an AAI and the sampling and analysis that confirm that the property is contaminated above EGLE standards. For the BEA to be valid, it must be conducted within 45 days after, the date of purchase, occupancy, or foreclosure and submitted to EGLE within six months.</p>

<i>Exempt Activities as described in Act 381</i>	<i>Guidance</i>
Plans for compliance with due care	<p>Property owners and operators are required to take measures to ensure that contamination does not cause unacceptable risks to human health and the environment. Taking measures or implementing response actions to make the property safe for reuse is commonly referred to as exercising due care. Plans for due care compliance will evaluate the contamination with respect to the current and intended property use. Plans may include precautions during construction, design of engineering controls, or remediation measures. Plans do not include documentation of due care compliance.</p> <p>Please work with your EGLE Brownfield Coordinator early to plan for the appropriate due care activities specific to your project site.</p> <p>See here for more information on due care.</p>
Pre-demolition and building hazardous materials surveys & asbestos, mold, and lead surveys	<p>Pre-demolition and asbestos surveys are required prior to most demolition or renovation activities. Mold, lead paint, and other hazardous material surveys may also be necessary in structures that will be demolished or renovated.</p>
Asbestos, mold, lead, and building hazardous materials abatement and demolition not exceeding \$250,000	<p>These activities may be reimbursed with state tax increment revenue without an approved Act 381 Work Plan so long as the <u>combined</u> total amount of these activities requested for reimbursement does not exceed \$250,000. If the combined total amount of these activities exceeds \$250,000 and reimbursement with school TIR is being sought, you should work with MEDC, MSHDA, and/or EGLE, as appropriate, to determine level of support and eligibility.</p>

Part 8 – EGLE Eligible Activities

This section describes some of the criteria used by EGLE to evaluate proposed activities. EGLE staff evaluate Department Specific Activities, defined in Act 381 Sections 2(l), 2(m), and 2(o), to confirm eligibility for state TIR capture.

General Notes:

- EGLE considers site-specific brownfield conditions, applicable laws, regulations, guidelines, policy and reasonableness of costs when evaluating proposed activities. EGLE staff may request additional information before determining eligibility.
- Adequate characterization of on-site contamination will be necessary for EGLE to determine the suitability and reasonableness of eligible activities. Sufficient assessment and characterization of site conditions will allow for more informed decisions, the best long-term outcomes, and stewardship of taxpayer dollars.
- To facilitate consistent, accurate, and timely review, the information provided in this section, and in the EGLE Brownfield Eligible Activity Resource, should be used when preparing your Work Plan for EGLE approval. The EGLE Brownfield Eligible Activity Resource can be found [here](#).
- Soft and, or temporary costs must be associated and included with an eligible activity. Do not break these costs out as a separate eligible activity. Typical soft costs may include contractor procurement, engineering, design, legal services, oversight, project management, reporting, etc. Typical temporary costs may include staking, land control, soil erosion and sedimentation control (SESC), construction access roads, truck washes, traffic control, temporary facilities and, or utilities, etc.

The following activities require EGLE approval to be eligible for reimbursement with state TIR. The table below provides general information that is not meant to be a comprehensive list of all potentially eligible activities or considerations. More detailed information on EGLE Eligible Activities can be found in EGLE's Brownfield Eligible Activity Resource document. **EGLE should be consulted in advance and provided with a draft Work Plan to ensure proposed activities are eligible.**

<i>EGLE Eligible Activities (aka Department Specific Activities)</i>	<i>Guidance</i>
Due care activities	Due care activities include the minimum response activity and obligations necessary for the safe reuse of contaminated property. Due care actions to mitigate unacceptable exposures to contamination at the property may include implementing precautions during construction, installation of engineering controls, and/or remediation. Please work with your EGLE Brownfield Coordinator to determine the appropriate due care activities to achieve the desired outcomes for your project.

<i>EGLE Eligible Activities (aka Department Specific Activities)</i>	<i>Guidance</i>
Response activities	Response activities are generally thought of as those activities necessary to address or remove contamination that are in addition to the minimum requirements for due care. Please work with your EGLE Brownfield Coordinator to determine the appropriate response activities to achieve the desired outcomes for your project.
Underground storage tank (UST) removal	UST removal and closure pursuant to Parts 211 and 213.
Disposal of solid waste	Solid waste such as building debris, tires, and other materials illegally dumped on site may be removed, transported to, and disposed of at a licensed waste disposal facility, provided the waste was not generated or accumulated by the BRA or the developer.
Dust control	Dust control includes actions necessary to prevent or reduce the surface and air transport of contaminated dust during eligible activities or would be above and beyond those dust control activities required at non-contaminated construction sites.
Dredging in waterways	Removal, transportation, and proper disposal of sediment from navigable waterways may be an EGLE eligible activity if: <p>(1) sediments pose a risk to human health and dredging is a response activity, and</p> <p>(a) dredging is tied to an economic development project with a committed developer, and the upland parcel(s) is contaminated,</p> <p>or</p> <p>(b) the sediment is contaminated and would create or exacerbate contaminated land if deposited on the upland parcel(s).</p>
Industrial cleaning	Cleaning of walls, pits, floors and/or drains, etc. to allow new tenants to reuse an existing structure, install equipment, or complete interior renovations.
Bracing, Sheeting, Shoring at projects requiring a permit pursuant to Part 301, 303, or 325 of NREPA	Bracing, sheeting, or shoring may be necessary prior to excavation of contaminated material to protect life, the land, or the integrity of the excavation on projects near surface water bodies. This is rarely an eligible activity.

<i>EGLE Eligible Activities (aka Department Specific Activities)</i>	<i>Guidance</i>
Abatement of Lead, mold, and/or asbestos that pose an imminent and significant threat to human health.	Lead, mold, and/or asbestos abatement may be an EGLE eligible activity when the land is contaminated and EGLE confirms that lead, mold, and/or asbestos pose an imminent and significant threat to human health. This is rarely an eligible activity.
Environmental insurance	Liability insurance for environmental contamination and cleanup that is beyond the standard cost of development and is not required by state or federal law is an eligible activity. A copy of the insurance policy must be provided to EGLE to ensure reasonableness of costs and applicability of the coverage. These policies are typically purchased by the developer/investor. Contractor pollution liability and errors and omissions policies are not eligible.
Unanticipated response activities	<p>Additional costs and or response activities to address unexpected conditions encountered during development that were not originally included in a Brownfield Plan or Work Plan may be reimbursed with state TIR if:</p> <ol style="list-style-type: none"> (1) The eligible property is already included in the Brownfield Plan; (2) The eligible activities are discussed with, and supported by EGLE in writing before the activities are conducted and costs are incurred (for the best outcomes, the written consultation should include itemized eligible activity costs); and (3) The activities are then included in an amended or subsequent Work Plan. <p>The BRA must submit an approved brownfield plan and amended or subsequent Work Plan, to EGLE for review and approval of the unanticipated activities. EGLE must reply to the amended or subsequent Work Plan in writing before unanticipated response activities are approved for state TIR capture.</p>

The above summary of EGLE eligible activities is provided for informational purposes. A thorough review of applicable statutes including Act 381, Part 201, Part 213, and Part 10 Administrative Rules should be completed before making site specific decisions. These documents are available at the EGLE Remediation and Redevelopment Division [website](#).

Part 9 – MSF Non-Environmental Eligible Activities

This appendix is intended to be used as a “road map” to guide the reader through the technical approaches and the criteria used to evaluate projects proposed to the MSF. This guidance will also facilitate consistent, accurate, efficient, and timely completion of a project’s approval where the capture of school TIR is desired. The MEDC Brownfield Redevelopment Program will evaluate MSF eligible activities for each particular project, taking into consideration all the facts and circumstances of a site under the authority of applicable laws, regulations and established policy. No provision of this guidance document should be construed to limit the MSF's authority to require additional information on site-specific and project conditions. This guidance document shall replace and supersede any previous guidance document. After a detailed evaluation of proposed MSF eligible activities, the MSF will determine eligibility for school TIR capture based on site-specific brownfield-related conditions, other relevant factors, and the information below.

The MSF reserves the right to request a licensed P.E. opinion, including appropriate testing/data for requested MSF eligible activities.

Any activity eligible for inclusion in an EGLE Work Plan should not be part of an MSF eligible activity request. If contamination is present, consultation with EGLE is expected.

The following tables of MSF activities are organized as follows:

Activities Eligible Statewide:

Demolition
Lead, Asbestos or Mold Abatement

Activities Available to Qualified Local Governmental Units Only:

Infrastructure Improvements
Site Preparation

Miscellaneous Activities Available Statewide

Ineligible Activities/Expenses

<i>Demolition – Activity Available Statewide</i>	<i>Guidance</i>
<p><u>Building demolition (interior, partial or whole building)</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Pre-demolition audit or survey • Deconstruction or select demolition of building elements (products or materials) to be recycled or reused • Building demolition • Proper disposal (including transportation costs) of non-reusable or non-recyclable building elements • Recycling of demolition debris (such as concrete and brick) to produce recycled aggregates if conducted for on-site reuse • Foundation and basement removals • Dewatering during foundation and basement removals • Sheeting/shoring to protect adjacent buildings, structures or improvements during foundation and basement removals • Fill, compaction and rough grading to balance the side where to the former building was located 	<p>The Work Plan should include the size, type, location, and number of buildings, structures or improvements to be demolished.</p> <p>Building demolition that is not an MSF eligible activity may be eligible for EGLE approval.</p>

<i>Demolition – Activity Available Statewide</i>	<i>Guidance</i>
<p><u>Site demolition</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Removal of abandoned utilities, underground storage tanks (UST), parking lots, roads, curbs and gutters, rail spurs, sidewalks, bike paths, or other similar or related structures or improvements • Proper disposal (including transportation costs) of non-reusable or non-recyclable elements of the demolition materials • Recycling of demolition debris (such as concrete and brick) to produce recycled aggregates, if conducted for on-site reuse • Fill, compaction, and rough grading to balance the site where the former structures or improvements were located 	<p>The Work Plan should include the size, type, location, and number of buildings, structures or improvements to be demolished.</p> <p>Site demolition that is not an MSF eligible activity may be eligible for EGLE approval.</p>

<i>Lead, Asbestos or Mold Abatement – Activity Available Statewide</i>	<i>Guidance</i>
<p><u>Lead, asbestos or mold abatement</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Assessing • Surveying • Sampling • Reporting • Abatement 	<p>The Work Plan should include the location, number of buildings, structures, or improvements to be abated, the procedure, and method for lead, asbestos or mold abatement.</p> <p>Lead, asbestos or mold abatement that is not an MSF eligible activity may be eligible for EGLE approval.</p>

<i>Infrastructure Improvements – Activity Available to <u>Qualified Local Governmental Units</u> and Land Bank controlled properties Only</i>	<i>Guidance</i>
<p><u>Public right-of-way only</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Bike paths and/or walking trails • Boardwalks • Bridges • Curbs and gutters • Landscaping • Lighting • Marinas • Park/seating areas • Public rail lines • Publicly-owned utilities (e.g., electric) • Roads • Sanitary sewer mains • Sidewalks • Storm water systems • Transit-oriented development/property • Water mains • Snow melt systems 	<p>The Work Plan should describe why infrastructure improvements are necessary for the redevelopment project. As appropriate, identify the improvements on a per-unit cost basis and describe the size and scale of the project in terms of the linear feet, square footage, or other appropriate measures.</p>

<i>Infrastructure Improvements – Activity Available to <u>Qualified Local Governmental Units</u> and Land Bank controlled properties Only</i>	<i>Guidance</i>
<p><u>Public right-of-way or private property</u></p> <p>Vertical, underground, or integrated parking</p>	<p>Soil removal and transportation costs will be permitted for integrated, underground or vertical parking. Parking decks that integrate building foundations may include the cost for that portion of the foundation that exceeds the estimated cost for a typical slab foundation. Parking structures that contain shared elements (e.g., elevators) with a building may request approval for the costs that are specific to the parking structure only.</p> <p>Soil removal for vertical, underground, or integrated parking that is not an MSF eligible activity may be eligible for EGLE approval.</p>
<p><u>Public right-of-way or private property</u></p> <p>Urban storm water management system - traditional</p>	<p>Capturing, diverting, or slowing storm water discharge to a municipal sewer system during a storm event may be approved when increased urban density is desired and limited space requires underground retention or similar systems. Costs included under this activity will be considered only if they exceed costs that would be incurred to construct a storm water retention system on a similarly-scaled greenfield site, and when appropriate design information and support is provided. This activity <u>does not</u> include surface retention ponds in non-urban areas.</p>

<i>Infrastructure Improvements – Activity Available to <u>Qualified Local Governmental Units</u> and Land Bank controlled properties Only</i>	<i>Guidance</i>
<p><u>Public right-of-way or private property</u></p> <p>Urban storm water management system – Low Impact Design (LID)</p> <p>As long as due care is undertaken to prevent the spread of contamination, if present, LID may include installation of a device or system to retain storm water on-site or to encourage infiltration, such as:</p> <ul style="list-style-type: none"> • Dry well • Infiltration trench or berm • Subsurface infiltration bed • Bio-retention (rain garden) area • Level spreader • Permeable pavement • Purification equipment for the harvesting of rainwater in cisterns (including underground systems), rain barrels or other devices to reduce use of potable water used for landscape irrigation, fire suppression and other uses • Evapotranspiration techniques • Vegetated filter strips, green roofs, and swales designed specifically for mitigation of storm water 	<p>The MSF may approve 100% of the costs to manage storm water by mimicking the pre-settlement hydrologic cycle of a site. Storm water runoff may be detained and infiltrated, evaporated, or used close to its source. LID storm water management practices may be approved when appropriate design information and support is provided.</p>

<i>Ineligible Infrastructure Activities</i>	<i>Guidance</i>
<p><u>Ineligible infrastructure includes:</u></p> <ul style="list-style-type: none"> • Sanitary sewer leads or taps (fees) • Water leads or taps (fees) • Private utilities/services (project communication lines, networks, fiber optics, cable lines, etc.) 	

<i>Site Preparation – Activity Available to Qualified Local Governmental Units and Land Bank controlled properties Only</i>	<i>Guidance</i>
<p><u>Clearing and grubbing</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Removal of organic matter, including vegetative cover and topsoil, to a depth sufficient to permit the construction of the structure, utility or road 	<p>Vegetative cover means grasses, shrubs, trees, and other vegetation which holds and stabilizes soil. Grubbing means to disturb the soil by removing the vegetative cover including its root mass. This task shall include the proper recycling, reuse and/or disposal of the cleared and grubbed organic matter including vegetative cover and topsoil.</p>
<p><u>Compaction and sub-base preparation</u></p>	<p>This activity is allowed upon demonstration that this work is required as a result of other eligible activities such as excavation for unstable material, foundation work to address special soil concerns, or relocation of active utilities. Sub-base preparation and compaction of approved materials shall be performed by any reasonable method to achieve the required soil strength (density).</p>
<p><u>Cut and fill</u></p>	<p>Excavating material in one place and depositing it nearby (as in building a road or canal) may be allowed where specific site conditions warrant.</p>

Site Preparation – Activity Available to <u>Qualified Local</u> <u>Governmental Units and</u> <u>Land Bank controlled</u> <u>properties Only</u>	Guidance
<u>Dewatering</u>	<p>Dewatering is a method or operation in which water is removed due to a high water table level. MSF will approve dewatering only in conjunction with other eligible tasks, such as excavation for unstable material, excavation to support underground parking, foundation work to address special soil concerns, fill, or urban storm water management.</p> <p>Dewatering that is not an MSF eligible activity may be eligible for EGLE approval.</p>
<u>Dredging in waterways</u> May include: <ul style="list-style-type: none"> • Testing • Dredging • Transportation and disposal at an appropriate landfill • Upland disposal and cover 	<p>Removal, transportation, and proper disposal of sediment from navigable waterways is an eligible expense if the dredging will lead to economic development of the brownfield property.</p> <p>Dredging that is not an MSF eligible activity may be eligible for EGLE approval.</p>
<u>Excavation for unstable material (e.g., urban or historic fill)</u>	<p>Urban or historic fill excavation may be allowed when a site is found to include unstable material that will not provide adequate structural support for the proposed development.</p> <p>Specifically, this task is for the purpose of removing urban or historic fill and/or as a part of foundation work to address special soil concerns. Urban or historic fill material means deposited or disposed non-indigenous material that is a deterrent or disincentive to redevelop a site. Qualified unstable material may include basements, below grade structures, foundations (if not part of an eligible demolition task), construction debris, dredge spoils, and/or demolition debris. Eligible costs can include transportation of non-reusable or non-recyclable materials and their proper disposal. Urban or historic fill material does not include a municipal solid waste disposal site.</p>

<i>Site Preparation – Activity Available to <u>Qualified Local Governmental Units and Land Bank controlled properties Only</u></i>	<i>Guidance</i>
<u>Fill</u>	<p>Addition or replacement of soils is allowed where:</p> <ol style="list-style-type: none"> (1) Unstable material has been removed as outlined above (see excavation for unstable material); (2) An open excavation or void below grade has been created to remove the foundation or basement of a building as a part of an MSF eligible activity such as demolition; or (3) A below-grade void has been created as a result of any geotechnical engineering task as outlined below. <p>Placement and compaction of fill materials is eligible and must be performed by any reasonable method to achieve the required soil strength (density).</p>
<u>Foundation work to address special soil concerns</u>	<p>Based on the structure’s load characteristics and the site’s soil properties, foundation systems designed for construction in the safest and most economical manner may be allowed. Foundations to address special soil concerns shall be validated by a licensed P.E. and supported with appropriate testing/data.</p> <p>Reimbursement with school TIR will be allowed only for the incremental increase in costs to address special soil concerns. In order to be considered for this activity, the Work Plan must document the cost gap by comparing the cost of constructing the foundation on indigenous soil at a similar nearby greenfield site with the construction cost at the selected brownfield site.</p>

<i>Site Preparation – Activity Available to <u>Qualified Local</u> Governmental Units and Land Bank controlled properties Only</i>	<i>Guidance</i>
<p><u>Geotechnical engineering</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Investigating existing subsurface conditions and materials • Determining relevant physical/mechanical and chemical properties • Assessing risks posed by site conditions • Designing earthwork and structure foundations • Monitoring site conditions, earthwork, and foundation construction 	<p>If warranted by brownfield site conditions, geotechnical engineering to obtain and determine soil type and/or stability may be approved. Geophysical methods may be used to obtain data about sites. Subsurface exploration usually involves soil sampling and laboratory testing of the samples.</p>
<p><u>Grading</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Changing the natural cover or topography of the land • Movement or placement of soil from excavation, construction or land balancing • Cut and fill, as described above 	<p>Includes reasonable mass grading of the entire project site.</p>

<i>Site Preparation – Activity Available to <u>Qualified Local Governmental Units and Land Bank controlled properties Only</u></i>	<i>Guidance</i>
<p><u>Land balancing</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Filling a lower area with soil or other acceptable material from another on-site location in accordance with an approved site plan 	<p>The process of managing soil on-site to achieve a desired grade.</p>
<p><u>Relocation of active utilities</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Relocating overhead utilities • Burying overhead utilities (including electrical and phone lines) • Excavating for utility removal • Excavating and replacing a utility • Backfill material for the void created from the original utilities' removal and around the relocated utility • Placement and/or compaction of backfill material as outlined above (See compaction and sub-base preparation) 	<p>Private or public utilities that must be removed or relocated as a result of the new development, and that are an identified hindrance to the new development plans, may be allowed provided they are located within the legally established parcel boundaries of an eligible property.</p> <p>This <u>does not</u> include capacity upgrades for public and/or private utilities.</p>

<i>Site Preparation – Activity Available to <u>Qualified Local Governmental Units and Land Bank controlled properties Only</u></i>	<i>Guidance</i>
<p><u>Retaining walls</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Structures that hold back the earth, stabilize soil from down-slope movement or erosion and provide support for vertical or near-vertical grade changes 	<p>Retaining walls may be allowed when their use will substantially reduce the amount of grading due to site-specific conditions.</p>
<p><u>Solid waste disposal</u></p> <p>Eligible solid waste could include:</p> <ul style="list-style-type: none"> • Used tires • Old appliances and furniture • Used car batteries 	<p>Solid waste as defined in MCL 324.11506 may be removed, transported to, and disposed of at a licensed waste disposal facility, provided the waste was not generated or accumulated by the BRA or the developer. Remediation of landfill sites is not an eligible activity.</p>
<p><u>Staking</u></p>	<p>Prior to the commencement of site work, construction staking may be allowed for the completion of MSF eligible activities.</p>
<p><u>Temporary construction access and/or roads</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Roughing in the road by cutting out unsuitable soils • Grading • Subgrade preparation • Placement and compaction of fill material for roadbed completion 	

<i>Site Preparation – Activity Available to <u>Qualified Local Governmental Units and Land Bank controlled properties Only</u></i>	<i>Guidance</i>
<p><u>Temporary erosion control</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Silt fence installation • Manhole treatment devices • Silt traps • Mulching and temporary planting of areas exposed by grading • Construction of diversions, channel linings, grade stabilization structures and bank protection structures 	<p>Temporary construction site erosion and sediment controls are intended to minimize the amount of soil and other material carried by storm water runoff where activities do not include the construction of a building. These can include structural measures, non-structural measures, vegetative planting, or management practices.</p>
<p><u>Temporary facility</u></p>	<p>A structure permitted by the local building codes, and used temporarily during construction, development, land balancing, or soil extraction.</p>
<p><u>Temporary sheeting and shoring</u></p>	<p>Temporary bracing, sheeting, or shoring necessary to address soil concerns during construction of open cut trenches or foundations, as required by laws or ordinances to protect life, property, or the work, may be MSF eligible. During demolition, temporary sheeting and shoring may be allowed to protect adjacent buildings, roads, or utilities.</p>
<p><u>Temporary site control</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Fencing • Posts • Gates • Locking devices • Guardrails • Signage • Lighting 	<p>In certain instances, it may be necessary to temporarily secure the project site to protect human health or the project investment.</p>

Site Preparation – Activity Available to <u>Qualified Local</u> Governmental Units and Land Bank controlled properties Only	Guidance
<p><u>Temporary traffic control</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Road closure • Signage • Barricades • Lights • Guards • Flaggers 	<p>This task may be allowed and may include those items necessary to control the flow of traffic as required and approved by governing authorities.</p>
<p><u>Specific and unique activities</u></p>	<p>MSF may consider specific and unique site preparation activities that are due to site-specific brownfield conditions and are necessary for successful redevelopment of the eligible property.</p>

<i>Ineligible Site Preparation Activities</i>	<i>Guidance</i>
<u>Topsoil and seeding</u>	Not allowable except as a temporary erosion control, or an infrastructure improvement located within a public right-of-way.
<u>Landscaping</u>	May be allowed as an infrastructure improvement if located within a public right-of-way.
<u>Underground sprinkler system (irrigation)</u>	May be allowed as an infrastructure improvement if located within a public right-of-way, or on private land if part of a LID storm water management system exclusively utilizing collected water.
<u>Site Lighting</u>	Not allowable unless a part of temporary site control as outlined above, or as an infrastructure improvement if located within a public right-of-way or an underground or vertical parking ramp.
<u>Engineered fill</u>	Not allowable unless a part of fill as outlined above.
<u>Backfill around foundations and private/site utilities</u>	Backfill around foundations and private/site utilities is generally not allowed because clean backfill (typically clean earth fill composed of sand, or other municipally-approved fill) is required around all foundations and underground utility installations, regardless of location or brownfield conditions.

Miscellaneous – Activity Available Statewide	Guidance																						
<p><u>Soft costs</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Geotechnical • Architectural • Engineering • Design • Legal • Other professional fees 	<p>MSF may consider soft costs as long as the costs are directly related to the MSF eligible activity. Soft costs incurred by municipal employees related to infrastructure improvement are <u>not</u> eligible costs.</p>																						
<p><u>Administrative fees</u></p>	<p>BRA administrative and operating expenses may be reimbursed with <u>local TIR only</u>. In each fiscal year, the amount of TIR that can be used for administrative and operating expenses purposes is as follows:</p> <table border="1" data-bbox="768 861 1175 1268"> <thead> <tr> <th>Number of Projects</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>5 or Fewer</td><td>\$125,000</td></tr> <tr> <td>6 to 10</td><td>\$165,000</td></tr> <tr> <td>11 to 15</td><td>\$200,000</td></tr> <tr> <td>16 to 20</td><td>\$225,000</td></tr> <tr> <td>21 to 25</td><td>\$250,000</td></tr> <tr> <td>26 to 30</td><td>\$400,000</td></tr> <tr> <td>31 to 53</td><td>\$650,000</td></tr> <tr> <td>54 to 73</td><td>\$900,000</td></tr> <tr> <td>74 to 98</td><td>\$1,400,000</td></tr> <tr> <td>99 or more</td><td>\$2,000,000</td></tr> </tbody> </table> <p>Fees may be increased by increments of two percent (2%) for each written agreement entered into by a County BRA to serve as another municipality's BRA, or 2% if a BRA enters into an agreement with one or more other authorities to administer one or more administrative operations of those other authorities, up to ten percent (10%) total.</p>	Number of Projects	Amount	5 or Fewer	\$125,000	6 to 10	\$165,000	11 to 15	\$200,000	16 to 20	\$225,000	21 to 25	\$250,000	26 to 30	\$400,000	31 to 53	\$650,000	54 to 73	\$900,000	74 to 98	\$1,400,000	99 or more	\$2,000,000
Number of Projects	Amount																						
5 or Fewer	\$125,000																						
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21 to 25	\$250,000																						
26 to 30	\$400,000																						
31 to 53	\$650,000																						
54 to 73	\$900,000																						
74 to 98	\$1,400,000																						
99 or more	\$2,000,000																						
<p><u>Contingency</u></p> <p>A maximum fifteen percent (15%) contingency for unforeseen circumstances and cost overruns may be added to the estimated cost of the proposed activities.</p>	<p>The contingency should not be calculated on the costs for Brownfield Plan, Combined Brownfield Plan, or Work Plan preparation or implementation, interest, or for previously conducted activities. The MSF will approve the 15% contingency only on approved eligible activities.</p>																						

<i>Miscellaneous – Activity Available Statewide</i>	<i>Guidance</i>
<p><u>Interest</u></p> <p>MSF may support up to 5% simple interest</p>	<p>On a case-by-case basis, MSF may approve interest on principal eligible activities including demolition, lead, asbestos & mold abatement, infrastructure improvements and site preparation for projects that demonstrate financial need. The project must demonstrate financial need as determined by MEDC staff 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 an 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 BRA has the ability to cap the amount of interest and the MSF will not support more than the capped amount. The MSF also reserves the right to approve an interest rate and/or interest amount lower than what is requested in the Work Plan. Projects contemplating interest should engage the MEDC early in the planning process.</p>
<p><u>Work Plan and/or Brownfield Plan preparation</u></p> <p>Includes reasonable costs of developing and preparing Brownfield Plans, Combined Brownfield Plans, or Work Plans, including, but not limited to, legal and consulting fees, but cannot exceed \$30,000</p>	<p>If a Plan includes MSF and EGLE eligible activities, the maximum school TIR for Plan development remains at \$30,000 and should be split between the two agencies.</p>
<p><u>Work Plan and/or Brownfield Plan implementation</u></p> <p>Includes reasonable costs of Brownfield Plan, Combined Brownfield Plans, or Work Plan implementation, including, but not limited to, tracking, submittal, review of invoices for reimbursement, plan compliance, and data reporting, but cannot exceed \$50,000</p>	<p>If a Plan includes MSF and EGLE eligible activities, the maximum school TIR for Plan implementation remains at \$50,000 and should be split between the two agencies.</p>

<i>Ineligible Activities/Expenses</i>	<i>Guidance</i>
<p>Ineligible activities include:</p> <ul style="list-style-type: none"> • Certain Legal fees • Permitting fees • Site improvements • Administration by staff of the local unit of government • Land acquisition • Costs incurred for environmental response and all non-environmental activities outside of an EGLE, MSF, or MSHDA approved Work Plan • Registration fees, including registration of an underground storage tank • Taxes (except sales tax) • Equipment purchase, maintenance, and repairs • Third party damages • Insurance (except environmental insurance) 	

Part 10 MSHDA Housing Activities Guidance

This part is intended to be used as a “road map” to guide the reader through the technical approaches and the criteria used to evaluate housing projects proposed to MSHDA. This guidance will also facilitate consistent, accurate, efficient, and timely completion of a project’s approval where the capture of school TIR is desired. The MSHDA Housing Tax Increment Financing staff will evaluate MSHDA eligible housing and housing-related activities for each project, taking into consideration all the facts and circumstances of a site under applicable laws, regulations, and established policy. MSHDA eligible activities are those intended for eligible property with subsidized affordable housing, for which the owner or developer stipulates price and income restrictions and monitoring. No provision of this guidance document should be construed to limit the MSHDA's statutory authority to require additional information on site-specific and project conditions. This guidance document will serve to summarize and work in conjunction with more detailed guidance on housing activities within Act 381 available in the MSHDA and other joint agency guidance documents. After a detailed evaluation of proposed MSHDA eligible activities, MSHDA will determine eligibility for school TIR capture based on site-specific conditions, other relevant factors per the Act, and the information below.

Any activity eligible for inclusion in an EGLE Work Plan should not be part of an MSHDA eligible activity request. If contamination is present, consultation with EGLE is expected. MSHDA strongly recommends completion of a Phase I environmental report prepared by a MSHDA-approved provider ([see MSHDA website](#)).

Note that for purposes of the eligible activities identified in this section, MSHDA defines “infrastructure” as all fundamental physical development activities, that are not EGLE eligible activities, and that are necessary for the proposed affordable housing, or directly support the housing development activities, or are safety improvements necessary for the proposed affordable housing project and that may be available for public use. Examples of MSHDA-approvable housing infrastructure include, but are not limited to, water/sewer connectivity, sidewalks, driveways, development drives, and parking areas/structures. Additionally, geothermal, green-build features, like solar panels and electric vehicle charging stations, may be considered an eligible infrastructure activity if there is a direct benefit to the proposed eligible housing property.

Eligible MSHDA housing activities may include:

Eligible Housing Development Activities statewide:

- Reasonable costs of environmental insurance.
- Reasonable costs incurred to develop and prepare brownfield plan or work plans for eligible property.
- Reasonable costs of brownfield plan and work plan implementation, including tracking, monitoring, and reporting.
- Demolition that is not a response activity.
- Lead, asbestos, or mold abatement.

Eligible Housing Development Activities for communities that have (a) identified a specific housing need and (b) have absorption or job growth data included in the brownfield plan:

- Reimbursement for qualified rehabilitation of rental housing.
- Costs of Infrastructure and safety improvements necessary for a housing project.

- Demolition and renovation of existing buildings and site preparation necessary to accommodate income qualified purchaser or renter households.
- Temporary household relocation costs for an income qualified household for up to 1 year.
- Acquisition costs for blighted or obsolete rental units, to the extent acquisition will promote rehabilitation or adaptive reuse for income qualified purchaser or renter households.
- Reimbursement to a developer to fill a financing gap associated with the development of housing for income-qualified households, related infrastructure, and site preparation to the extent not an environmental response activity.

Rehabilitation of Existing Housing	Rehabilitation of Existing Non-Housing Structure	New Construction	
Infrastructure & Safety Improvements	Infrastructure & Safety Improvements	Infrastructure & Safety Improvements	
Site Preparation	Site Preparation	Site Preparation	
Financing gap	Financing gap	Financing gap	
Demolition & renovation	Demolition & renovation	Demolition	
Temporary household relocation			
Acquisition costs of blighted or functionally obsolete rental properties for income qualified uses*			

The following is Addendum II to the [MSHDA TIF Program Statement](#), to aid in the preparation of plan submissions to MSHDA:

1. Threshold Submission Requirements:

- i. Does the brownfield plan include the use of taxes levied for school operating purposes? If so, is the work plan or combined brownfield plan requesting reimbursement for housing development activities? Is at least some portion of the housing to be developed subsidized or to be sold or rented to households at or below 120% AMI?

☐ YES or ☐ NO

a) If no to any of these questions, **STOP AND DENY:**

MSHDA has no statutory authority to review the plan, and it must be returned to the submitting BRA.

- ii. Was the plan submitted by the local BRA or duly authorized municipal designee?

☐ **YES** or ☐ **NO**

- a) If no, **STOP AND DENY**:

A work plan submitted under Section 15(10), or a combined brownfield plan submitted under Section 15(20)(b), must be submitted to MSHDA by the local BRA.

- b) Return to the submitting party.

- iii. Is the work plan part of a transformational brownfield plan?

☐ **YES** or ☐ **NO**

- a) If yes, pursuant to Section 15(11) the BRA must complete all required financial analyses prior to submitting a work plan to MSHDA.

Was the required financial analysis completed by the BRA?

☐ **YES** or ☐ **NO**

- b) If no, **STOP AND DENY**.

- c) Return to the submitting BRA.

- iv. Did the BRA submit for each eligible property pursuant to Section 15(10) the following items?

- a) A copy of the brownfield plan or the transformational brownfield plan.

☐ **YES** or ☐ **NO**

- b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

☐ **YES** or ☐ **NO**

- c) A summary of available information on the historical and current use of each eligible property.

☐ **YES** or ☐ **NO**

- d) Existing and proposed future zoning for each eligible property.

☐ **YES** or ☐ **NO**

e) A summary of the proposed redevelopment and future use for each eligible property.

☐ **YES** or ☐ **NO**

f) A separate work plan, or part of a work plan, for each eligible activity described in Section 13b(4) to be undertaken.

☐ **YES** or ☐ **NO**

g) A copy of the development agreement or reimbursement agreement between the municipality or authority and an owner or developer of eligible property required under Section 13b(4), which must stipulate price and monitoring for residential units, and include a detailed summary of any and all ownership interests, monetary considerations, fees, revenue and cost sharing, charges, or other financial arrangements or other consideration between the parties.

☐ **YES** or ☐ **NO**

h) For work plans that include housing development activities, a summary of proposed income and price monitoring responsibilities and related expenses.

☐ **YES** or ☐ **NO**

1. If not all of the items listed in iv.(a)-(h) were included, which item(s) is/are missing?

2. If no, STOP AND DENY the work plan or combined brownfield plan for incompleteness. List missing items in the response letter to the submitting BRA.

v. Are the eligible activities in the combined brownfield plan or work plan submitted by the BRA consistent with the eligible activities described in Section 13b(4)?

☐ **YES** or ☐ **NO**

a) If no, which eligible activities are inconsistent:

b) If no, STOP AND DENY the work plan or combined brownfield plan for inconsistency.

2. Housing Work Plan and Combined Brownfield Plan Review Criteria:

- i. Does the development agreement or reimbursement agreement between the municipality or BRA and an owner or developer of eligible property stipulate price and income monitoring for residential units?

☐ YES or ☐ NO

- a) If no, DENY the work plan or combined brownfield plan for lack of development agreement or reimbursement agreement that stipulates price and income monitoring for residential units and continue review of additional criteria.

- ii. The following criteria will be considered to the extent reasonably applicable to the type of activities proposed as part of the submitted work plan or combined brownfield plan when approving or denying a work plan or combined brownfield plan:

- a) Are the individual activities included in the work plan or combined brownfield plan sufficient to complete the proposed eligible housing development activity?

1. Rehabilitation and new construction projects must submit a copy of a purchase agreement and Development Cost Budget.

Was a copy of a purchase agreement provided and are all Development Cost Budget items listed within the work plan or combined brownfield plan?

☐ YES or ☐ NO

- b) If no, explain what is missing and what needs to be done to achieve completion of the proposed eligible housing development activity:

- c) If no, add the items that are missing or that need to be done to the terms of a conditional approval.

- III. Is each individual activity included in the work plan or combined brownfield plan required to complete the eligible housing development activity?

☐ YES or ☐ NO

- a) In order for individual activities to be deemed to be required to complete the eligible housing development activity, they must be limited to those items detailed in the Development Cost Budget. All other activities will be deemed not required to complete the eligible housing development activity.

- b) If no, explain what is not required to be done to complete the eligible housing development activity:

-
- c) If no, add to the terms of a conditional approval a listing of the items to be removed as not required to complete the eligible housing development activity.

iv. Is the cost for the eligible housing development activity reasonable?

- a) Utilize the Potential Rent Loss (PRL) Gap Cap & Total Housing Subsidy (THS) Calculations worksheet to determine reasonableness of gap funds needed to develop affordable housing versus market rate housing. A copy of the completed worksheet must be attached to this document.

☐ **YES** or ☐ **NO**

Total Tax Increment Capture _____

Calculated Housing Gap Cap _____

Calculated Remaining Tax Capture _____

v. Is there an overall benefit to the public?

☐ **YES** or ☐ **NO**

- a) To be of a public benefit, the proposed housing development must meet one of the following:

1. Satisfies a housing need determined by a current local housing needs assessment (no more than 3 years old), which is provided to MSHDA.
2. Satisfies a housing need for the area as determined by a current housing market study.
3. Satisfies a housing need identified in the Michigan Statewide Housing Plan found on MSHDA's website.
4. Satisfies a housing need identified in a regional housing study.

- b) If no, explain why the proposed housing development provides no overall benefit to the public.

-
- c) If there is no overall benefit to the public, the project is denied as lacking public benefit.

vi. Is there reuse of vacant buildings and redevelopment of blighted property?

☐ **YES** or ☐ **NO**

This item is only applicable to work plans or combined brownfield plans specifically identifying the redevelopment of “blighted” property as defined in PA 90. For all other work plans or combined brownfield plans, this item is not applicable.

a) If yes:

1. Is the vacant building being torn down or repurposed?

2. If the property is blighted, under what definition found in Section 2(c) is the property considered blighted?

3. If blighted, is the acquisition cost to promote rehabilitation or adaptive reuse of the blighted or obsolete rental unit included in eligible activities?

☐ **YES** or ☐ **NO**

Amount of acquisition cost

b) Explain as applicable in the recommendation summary:

1. The proposed reuse of or demolition of vacant buildings

2. Method used to determine that the property is blighted. A letter from the local municipality is acceptable.

3. Is acquisition cost of blighted or obsolete property included as an eligible activity?

☐ **YES** or ☐ **NO**

If no, add as conditional requirement that the cost be added or that the developer provide written confirmation that it was not omitted in error.

4. Is the property properly zoned, or must it be rezoned?

If it must be rezoned before the housing development can commence, add the requirement that the property must be properly zoned to the conditional approval.

vii. Are new jobs being created?

This item is not applicable to affordable or subsidized housing work plans or combined brownfield plans.

viii. Is the eligible housing development in an area of high unemployment?

This item is not applicable to affordable or subsidized housing work plans or combined brownfield plans.

ix. What is the level and extent of contamination alleviated by or in connection with the eligible activities?

a) A proposed housing development work plan must include an environmental review that meets MSHDA's Environmental Review Requirements found on MSHDA's website.

1. If the environmental review discloses that the proposed housing development site has environmental contamination, did EGLE provide clearance for residential development?

☐ **YES** or ☐ **NO**

2. If not cleared as evidenced by documentation from EGLE for residential development, the work plan or combined brownfield plan will be conditionally approved subject to EGLE clearance of the site for residential development.

x. What is the level of private sector contribution, including but not limited to private placement loans and developer contributions?

This item is provided for documentation only and is not used as a factor to determine approval or denial of the work plan or combined brownfield plan.

a) Add to the project summary the level of private sector contribution, including but not limited to private placement loans and developer contributions.

xi. Is the projected occupant of the new development moving from another location in this state and will the move create a brownfield?

This item is not applicable to affordable or subsidized housing work plans or combined brownfield plans.

xii. Is the developer, landowner, or corporate entity that is included in the work plan or combined brownfield plan financially and economically unsound as determined by a review of the following requirements?

☐ **YES** or ☐ **NO**

1. Is in default or in material non-compliance with the LIHTC or any other MSHDA program; or

2. Has outstanding flags in HUD's national 2530 National Participation system; or

3. Has been debarred or suspended from any MSHDA, HUD, or Rural Housing programs; or
 4. Has outstanding tax liens; or
 5. Does not have liquid assets at least equal to 3% of the proposed project housing development eligible activity costs.
- a) Deny if the developer, landowner, or corporate entity that is included in the work plan or combined brownfield plan is deemed financially and economically unsound based on the above criteria.
- xiii. Are there other state and local incentives or subsidies available to the developer, landowner, or corporate entity for the housing development project that are included in the work plan or combined brownfield plan?

☐ **YES** or ☐ **NO**

- a) What are the sources, uses and amounts of the other state and local incentives or subsidies provided?

Provide in the project recommendation summary.

- b) Are the other state and local incentives or subsidies firm commitments or contingent on some event?

Explain in the project recommendation summary.

- c) Do the other state and local incentives or subsidies permit the housing development to serve lower income households, seniors, homeless, persons with disabilities or other at-risk populations as may be deemed locally necessary based on housing reports or market studies?

Explain in the project recommendation summary.

- d) If the other state and local incentives or subsidies are required for financial viability and are there are not firm commitments, the housing development work plan or combined brownfield plan will be conditionally approved until the firm commitments are provided. Otherwise note the various incentives and subsidies in the recommendation summary and mark for approval.

- xiv. Does the proposed housing development align with the statewide housing plan?

☐ **YES** or ☐ **NO**

- a) If no, what are the stated reasons for deviation? Does the local municipality support the

proposed housing development activity as may be evidenced by a PILOT resolution or providing other development incentives? How did the developer determine that this housing need existed (e.g., local market study, community development plans, local needs analysis)?

- b) Deny if the work plan or combined brownfield plan is not aligned with the statewide housing plan and documented support for deviation from the statewide housing plan and/or community support for the proposed housing development is not provided.
 - c) Approve if the work plan or combined brownfield plan is aligned with the statewide housing plan or documented support for deviation from the statewide housing plan and/or community support for the proposed housing development is provided.
 - d) Explain how the project is aligned with the statewide housing plan or how the documentation provided supports a deviation from the statewide housing plan in the project recommendation summary.
- xv. Does the entity or agency monitoring price and income have the capacity to provide such monitoring, evidenced by experience providing such monitoring services based on the following criteria?
- ☐ YES or ☐ NO
- a) How many years of experience does the monitoring entity or agency have in Michigan?

 - b) An entity with limited experience and capacity monitoring price and income is defined as:
 - 1. An organization that has less than three years of price and income monitoring experience in programs such as Section 8, LIHTC, or HOME; or
 - c) Explain in the project recommendation summary whether the entity or agency has limited, or sufficient monitoring experience based on the above criteria.
 - 1. If the entity or agency has limited experience, grant a conditional approval based on either: (a) changing the monitoring entity or agency to one with sufficient experience in monitoring price and income for affordable housing; or (b) partnering with a sufficiently experienced monitoring agency; or (c) receiving two hours or more of training with MSHDA staff on income monitoring processes and procedures.
 - 2. What is the duration of the price and income monitoring?

For-sale housing is to be monitored for price and household income through the

first sale. Rental properties are to be monitored for a period not less than the expiration of projected tax increment capture but may be longer depending on other programmatic requirements.

3. If the proposed price and income monitoring duration does not meet the above, recommend a conditional approval to require changes to the duration of the price and income monitoring.

- xvi. Does the proposed housing development project support housing at price points that align with the local workforce based on localized area income and community data provided? Explain in the recommendation summary how the housing development price points either align or do not align with the local workforce income and community data.

☐ YES or ☐ NO

- a) Deny if the housing development project does not support housing at price points that align with the local workforce based on information provided by the BRA to MSHDA.
- b) Approve if the housing development project supports housing at price points that align with the local workforce based on information provided by the BRA to MSHDA.

- xvii. Is the proposed housing development to be income restricted for a period not less than the period of tax capture by providing deed restrictions to ensure the development meets long-term local housing needs?

☐ YES or ☐ NO

- a) If yes, do the terms of the draft deed restrictions match the proposed AMI levels to be served at the proposed housing development?

☐ YES or ☐ NO

1. If no to either, set as a conditional approval item that the developer agrees to deed restrict the property for affordable housing dedicated to serve AMI levels as detailed in the project proposal for a period not less than the proposed tax capture.

If yes to both, approve and note in the approval letter the deed restricted AMI level(s) and duration of deed restriction

Part 11 – Schedule 1 – Eligible Activities Table

EGLE Eligible Activities Costs and Schedule		
EGLE Eligible Activities	Cost	Completion Season/Year
Work Plan Exempt Activities Subtotal		
<i>Itemize Site Assessment and BEA Activities</i>		
<i>Itemize Pre-Demo, Hazardous Material, Lead, Mold, and Asbestos Surveys</i>		
<i>Itemize Due Care Planning Activities</i>		
Due Care Activities Subtotal		
<i>Itemize Due Care Activities</i>		
Environmental Response Activities Subtotal		
<i>Itemize Environmental Response Activities</i>		
Other Department Specific Activities Subtotal		
<i>Itemize Other EGLE Eligible Activities, e.g. UST Removal and Closure, Disposal of Solid Waste, etc.</i>		
Environmental Insurance		
EGLE Eligible Activities Sub-Total		
Contingency (Indicate %)		
Interest (Indicate %)		
Brownfield Plan and or Work Plan Preparation		
Brownfield Plan and or Work Plan Implementation		
EGLE Eligible Activities Total Costs		

MSF Eligible Activities Costs and Schedule		
MSF Eligible Activities	Cost	Completion Season/Year
Demolition Subtotal		
<i>Itemize Demolition Activities</i>		
Lead, Asbestos, Mold Abatement Subtotal		
<i>Itemize Abatement Activities</i>		
Infrastructure Improvements Subtotal		
<i>Itemize Infrastructure Improvement Activities</i>		
Site Preparation Subtotal		
<i>Itemize Site Preparation Activities</i>		
MSF Eligible Activities Subtotal		
Contingency (Indicate %)*		
Interest (Indicate %)**		
Brownfield Plan and/or Work Plan Preparation***		
Brownfield Plan and/or Work Plan Implementation****		
MSF Eligible Activities Total		

MSHDA Eligible Activities Costs and Schedule		
MSHDA Eligible Activities	Cost	Completion Season/Year
Housing Development Activities		
<i>Itemize Housing Development Activities</i>		
MSHDS Eligible Activities Subtotal		
Contingency (Indicate %)*		
Interest (Indicate %)**		
Brownfield Plan and/or Work Plan Preparation***		
Brownfield Plan and/or Work Plan Implementation****		
MSHDA Eligible Activities Total		

* EGLE, MSHDA and MSF allow up to a 15% contingency on certain eligible activities not previously conducted.

**Interest may be approved according to [MSF Policy Interest Calculator](#). In the event that an EGLE loan is being used in conjunction with TIF, the current EGLE loan interest rate will be used to calculate interest on EGLE loan activities instead of the interest rate approved in the Brownfield Plan. Contact EGLE for current loan rates.

*** EGLE, MSHDA and MSF allow up to a total of \$30,000 for preparation of Brownfield Plans and/or Work Plans.

**** EGLE, MSHDA and MSF allow up to a total of \$50,000 for Brownfield Plan, Combined Brownfield Plan or Work Plan implementation including, but not limited to, tracking and reporting of data and Plan compliance.