



Act 381 Work Plan Guidance

Pursuant to the
Brownfield Redevelopment Financing Act,
1996 PA 381, as amended
Rick Snyder, Governor



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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 approve Brownfield Plans and Act 381 Work Plans (Work Plans) that help revitalize, redevelop, and reuse contaminated, blighted, functionally obsolete, or historic resources. Under Act 381, eligible school (*includes state education tax [SET] and taxes levied for school operating purposes only*) and local tax 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 Environmental Quality (DEQ) and the Michigan Strategic Fund (MSF). The Michigan Economic Development Corporation (MEDC) serves as staff support to the MSF. These guidelines detail the activities that may be considered for state support on eligible properties.

This guide is designed to clarify parts of Act 381, but 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 issues with Act 381.

ACRONYMS OR DEFINITIONS

BRA – Brownfield Redevelopment Authority
CIA – Corridor Improvement Authority
DDA – Downtown Development Authority
DEQ – Department of Environmental Quality
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
NREPA – Natural Resources and Environmental Protection Act
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

“School” tax increment financing – includes state education tax plus taxes levied for school operating purposes (does not include intermediate school district [ISD] tax which is considered a local tax)

Part 1 - Eligibility

Eligible Property

Eligible property must be included in a Brownfield Plan and qualify as either a facility, property, or site, functionally obsolete, blighted, historic resource, transit-oriented property/development or in a targeted redevelopment area.

Properties are tax identification parcels that have corresponding legal descriptions.

“Facility/site/property” means land that is, or has a threat of being, contaminated by hazardous substances or petroleum products at a level that exceeds state cleanup criteria. A facility (site or property) determination must be made *prior* to submission of a Work Plan to the DEQ. MSF eligible activities can be conducted on parcels adjacent or contiguous to a facility (site or property) if the development of those parcels is expected to increase the taxable value of the eligible facility (site or property).

Facility is defined by Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), [MCL 324.20101\(s\)](#) (also see [Part 201 Citizen’s Guide](#)). *Property and site* are defined in Part 213, Leaking Underground Storage Tanks, of NREPA, [MCL 324.21303\(d\) and \(m\)](#), respectively.

"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 generally not support the use of school TIF for reimbursement of public infrastructure or site preparation if the project is not in a QLGU, regardless of the qualifying status of the property.

The MSF strongly discourages artificial adjustment of the base taxable value of a property, such as resetting the base taxable value to zero. In such instances, the MSF may require projects to adjust capture in order to maintain the school tax increment revenues (TIR) at the level of the base taxable value prior to resetting to zero.

(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](#).

“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. Capture on all parcels must begin at the same time, and within five years of inclusion in the Brownfield Plan.

“Adjacent and/or contiguous” includes parcels that are adjacent and/or contiguous to eligible property, if development of the adjacent and/or contiguous parcels will increase the captured taxable value of the eligible property. **Property adjacent to a facility may be included in a Brownfield Plan, but DEQ eligible activities can only occur on the facility.**

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.

Eligible Activities

Eligible Activities are actions that are taken to redevelop a brownfield property, the costs for which are eligible for reimbursement via TIF. 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.

Please consult with DEQ and/or MEDC staff prior to incurring costs so all parties clearly understand which activities are potentially eligible, and the timeframe for incurring the costs. Any costs incurred for MSF eligible activities prior to approval of the Brownfield Plan, Work Plan, or Combined Brownfield Plan are made at the risk of the project, and school TIF may not be approved for those activities.

Costs incurred for DEQ eligible activities prior to Work Plan approval are not eligible for reimbursement for school TIF with the exception of pre-approved activities. Eligible activities may be conducted using only local TIR without DEQ approval of a Work Plan.

Refer to DEQ and MSF Eligible Activities Table below ([Schedule 1](#)) for further guidance. Please note the DEQ and MSF Eligible Activities Table is the required format for Work Plans or Combined Brownfield Plans.

General Ineligible Activities/Expenses

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

- Site improvements
- Land acquisition (except by a LBFTA in certain circumstances)
- Interest on Brownfield or Work Plan preparation costs
- 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 as provided in Act 381 [Section 2\(p\)](#))

Part 2 - Tax Increment Financing

Initial Taxable Value and Increment

Cleanup and redevelopment of a brownfield property will increase the taxable value of the property, and therefore will increase the property taxes generated from the property. The increased tax revenues above the base taxable value resulting from redevelopment are known as TIR, or more commonly as captured taxes. Taxes captured under Act 381 can reimburse eligible environmental and non-environmental activity costs. Taxing jurisdictions continue to receive base year tax revenues until the Brownfield Plan ends, at which time the TIR reverts to the taxing jurisdictions.

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 for eligible property in a Brownfield Plan shall be identified to begin up to five years from the Brownfield Plan approval date. There is a 30-year limit for TIR capture. The beginning date of capture may not be amended after the jurisdiction has begun to reimburse costs on the eligible property.

TIR capture does not have to be collection of actual dollars, but is the date that was set in the Brownfield Plan to begin capture within five years of the eligible property being approved in the Plan.

In the case of a Brownfield Plan that was approved with the eligible property in the Plan without tax capture (a Michigan Business Tax (MBT) only plan), that Plan may not be amended to begin capture after five years from the original approval date, but the plan is considered valid for the term of the MBT credit eligible investment period.

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.

For Work Plans containing both DEQ and/or MSF 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 MSF and/or DEQ 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 approval from the DEQ and/or MSF. The intermediate school district tax is not a school tax under Act 381.

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.

Neither ad valorem special assessments nor State Essential Services Assessments are available for capture under a Brownfield Plan. Taxes levied to pay off specific obligations such as bonds are typically not available for capture.

The amount of allowable local and school tax capture is limited to the actual cost of eligible activities approved by the DEQ and/or MSF, 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 the DEQ and/or MSF in the Work Plan approval, capture of school and local taxes to reimburse the cost of eligible activities must be proportional to the ratio of school to local taxes being captured at the time such approval is granted.

The MSF and DEQ strongly encourage Downtown Development Authorities (DDAs), Corridor Improvement Authorities (CIAs) or other finance authorities to forgo their own TIR for brownfield-related TIR capture. An agreement or resolution may be negotiated whereby the DDA, CIA, etc. agree to forgo TIR to the BRA for the duration of the brownfield approval timeframe.

If an authority does not agree to forgo local capture, the existing ratio of school to local taxes must retain the same proportion as if the authority was not in place. The same local proportion must be contributed through some other local source.

In these instances, the state will determine the TIR that would have been captured through a Brownfield Plan as if the tax capture entity was not capturing the taxes. The proportion of local to school TIR, based on existing millage rates, will be applied against the maximum amount of TIR. The tax capture entity will be expected to contribute other resources to the project in an amount equal to or greater than its proportional obligation. Likewise, the state will determine its share under this scenario and adjust its contribution proportionally.

When a BRA passes through a percentage of captured taxes to taxing jurisdictions, 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 school taxes can be utilized for the same.

Tax Increment Revenue and Other Incentives

Developers may not be reimbursed with TIR for any activities paid with DEQ or Michigan Community Revitalization Program (MCRP) 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, the DEQ and/or MSF should be consulted to determine whether the incentives can be utilized together. If both brownfield TIR and MCRP 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

Environmental response activities that benefit a party who is responsible for an activity causing a release (responsible party or person) under [MCL 324.20126](#) and [MCL 324.21323a](#), with the exception of response activities associated with a landfill, cannot be reimbursed with school TIR. Under Act 381, a responsible party benefits only if the developer or person seeking reimbursement for eligible activities at the eligible property is a responsible person. If the developer or person seeking reimbursement is a business entity with a member who is a responsible person, school TIR cannot be used because of the direct and/or indirect benefit that the responsible party would receive. If a municipality owns or operates an eligible property and is a responsible party, school TIR cannot be used for environmental activities because the TIR would benefit the responsible party.

BRAs are obligated to determine whether a developer or person seeking reimbursement is a responsible party, and assuring that plans submitted for DEQ review do not propose activities that would benefit a responsible party. The state or BRA may take legal action to recover TIR used for response activities by responsible parties. If environmental liability can't be determined by the BRA, please contact the DEQ for assistance prior to preparation of a Brownfield Plan or submission of a Work Plan. Responsible parties do not have to be notified that eligible activities will be undertaken on the eligible property. However, if cost recovery will be undertaken in the future, the BRA should notify the responsible party of activities occurring at the eligible property.

Act 381 does not prohibit a BRA from using school TIR to conduct eligible MSF non-environmental activities for a Part 201 responsible party. The MSF does not need to consider responsible party issues in its review of a Work Plan.

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 school TIR captured for the LBRF cannot exceed the total cost of eligible DEQ activities in an approved Work Plan.
- Excess school TIR may not be captured on eligible activities approved by the MSF for deposit into the LBRF.

The BRA may use both local and school portions of the LBRF to conduct eligible activities on other eligible properties without DEQ or MSF approval.

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 (no more than the original amount of TIF and no more than the amount of school TIR approved for capture) for the LBRF.

Part 5 – Work 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 school TIR will be used to reimburse the cost of certain environmental activities or any non-environmental activities, the DEQ and/or the MSF must approve a Work Plan. The MSF Chairperson or delegates may approve a Work Plan with non-environmental eligible activities of \$1,000,000 or less, rather than going to the full MSF Board for approval, if not combined with any other MSF incentive.

Prior to submission of a Work Plan, the DEQ and MSF strongly recommend that the appropriate agency representatives be contacted to discuss the project. This will help save time on preparation of the Work Plan, prevent inclusion of ineligible activities, and reduce agency review time.

DEQ related brownfield questions should be addressed to: deqbrownfields@michigan.gov or (517) 284-5153.

MSF related brownfield questions should be addressed to: brownfield@michigan.org or (517) 373-6213 (This number is anticipated to change mid-2017 and will be updated).

Submission

Prior to submission of a Work Plan to DEQ and/or MSF, it is recommended that a draft be provided to the appropriate agency for review. MEDC [Community Assistance Team](#) (CAT) and [Business Development](#) (BD) staff, depending on project type, should be the first point of contact for Work Plans that propose MSF non-environmental activities. To obtain approval for a project with MSF costs, CAT or BD will scope the project and issue a letter of interest outlining agency support.

The Work Plan must be submitted to the DEQ and/or MSF by the BRA. 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. For DEQ Work Plans, a signed transmittal letter from the BRA or local government representative must be submitted. For MSF Work Plans, please wait for staff to request the transmittal letter. For projects that have both DEQ and MSF eligible activities, one Work Plan that includes both DEQ and MSF eligible activities should be prepared and submitted concurrently to both agencies.

For eligible activities requiring **DEQ** review: Send one (1) unbound, double-sided hardcopy to the Remediation and Redevelopment Division (RRD) in the district office serving your county (see DEQ [Office Locations map](#)) **and** one (1) unbound, double-sided hardcopy to:

Michigan Department of Environmental Quality
Remediation and Redevelopment Division
Brownfield Redevelopment Unit
Constitution Hall, 5th Floor South
525 West Allegan Street
Lansing, Michigan, 48933
(Mail Code: 76116)

The DEQ may request electronic copies of the documents as well.

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 is received and confirmed complete by the DEQ Brownfield Redevelopment Unit and MEDC.

MEDC staff have sixty (60) days from the official receipt date of a completed Plan to review MSF eligible activities in a Work Plan.

DEQ staff have sixty (60) days to review DEQ eligible activities in a Work Plan. If additional information is requested by DEQ, staff have forty-five (45) days to review the additional information. There are exceptions to DEQ approval in Act 381 [Sections 15\(5\) and \(6\)](#) regarding timelines. Response letters will be issued under signature of the DEQ Remediation and Redevelopment Division District Supervisor.

The DEQ 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 DEQ 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

The DEQ will respond pursuant to Act 381 [Section 15\(2\)](#) with one of the following determinations:

- An unconditional approval
- A conditional approval that describes modifications to the Work Plan including, but not limited to, individual activities to be added or deleted from the Work Plan and revised costs
- A request for additions or changes to the Work Plan if it lacks sufficient information
- A denial if the property is not an eligible property, if the Work Plan proposes the use of school TIR that benefits a liable party, or for any activity conducted before approval of the Brownfield Plan. The DEQ will state the reason for the denial. If the DEQ denies all or a portion of a Work Plan, the BRA may resubmit the Work Plan.

The statute requires a written response regarding Work Plan acceptability. You will receive separate written and/or electronic 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.

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\(2\)\(b-e\)](#) 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.

A BRA may amend the Brownfield Plan or develop a new Work Plan for additional eligible activities. The BRA can seek approval of school TIR from the DEQ or MSF for those activities and their costs, or approve the additional costs and pay for them with local taxes.

Reasonable Costs

Act 381 requires the DEQ and MSF 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 are reasonable, and provide justification to the DEQ and MSF.

Fifteen Percent (15%) Contingency

A maximum fifteen percent (15%) contingency for unforeseen circumstances and cost overruns may be added to the estimated cost of the proposed activities. The contingency should not be calculated on the costs for Brownfield Plan, Work Plan preparation or implementation, or for activities conducted prior to Work Plan submittal. The DEQ and MSF will approve the fifteen percent contingency only on the approved eligible activities.

Administrative Costs

The BRA's administrative and operating expenses may be reimbursed with local TIR only. DEQ and/or MSF approval 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 should 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. 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. The DEQ and/or MSF 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.

Combined Brownfield Plan

According to Act 381 [Section 15](#), a BRA may submit a Combined Brownfield Plan to the DEQ and/or MSF for review. A Combined Brownfield Plan contains all of the information required in a Brownfield Plan and a Work Plan, potentially reducing review and approval time.

The BRA must notify the DEQ and/or MSF in writing at least 30 days prior to the public hearing that the BRA is seeking approval of the Combined Brownfield Plan.

Instructions on how to develop and submit a Combined Brownfield Plan can be found on the [MEDC website](#).

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 both “local only” and school and local TIR capture.

The BRA is still responsible for completing all appropriate information in the portal in order to be compliant, even when it has no TIR capture to report. The DEQ will perform an audit on a random selection of school TIR projects annually.

Please be aware that failure to report by the deadline will result in the MSF and DEQ 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>.

Part 7 – DEQ Eligible Activities Guidance

This section describes some of the criteria used by the DEQ to evaluate proposed projects. DEQ staff evaluate DEQ eligible activities, defined in Act 381 [Section 2\(n\)](#), to confirm eligibility for school TIF. The DEQ considers site-specific brownfield conditions, applicable laws, regulations and established policy when evaluating eligibility. DEQ staff may request additional information before determining eligibility for school TIF. Please note, DEQ eligible activities will only be considered on eligible property that is a facility as defined in [MCL 324.20101\(s\)](#) or a site or a property as those terms are defined in [MCL 324.21303\(d\)](#) and [MCL 324.21303\(l\)](#), respectively.

Refer to this guidance when preparing your Work Plan for DEQ approval. It will facilitate consistent, accurate, efficient and timely completion of Work Plan review. The guidance is based on current policy and statute, and supersedes previous Act 381 guidance.

Pre-Approved Activities

According to Act 381 [Section 13b\(7\) and \(8\)](#), school TIR can be used for Pre-Approved Activities without approval by the DEQ and/or MSF.

<i>Pre-Approved Activities</i>	<i>Guidance</i>
<p><u>Phase I and Phase II environmental site assessments (ESAs)</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Sampling and analysis • Record and data interpretation • Reporting 	<p>All Appropriate Inquiry (AAI) standards for a land transfer, purchase, acquisition, occupancy, renovation, or redevelopment typically require Phase I and Phase II ESAs to determine whether the land is contaminated.</p>
<p><u>Asbestos, mold, and lead surveys</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Inspections • Sampling and analysis • Reporting 	<p>Asbestos, mold, and lead paint surveys may be necessary in structures that will be demolished, renovated, or reused. Surveys determine the presence, quantity, and condition of potential hazards.</p>
<p><u>Baseline environmental assessments (BEAs)</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Completing • Submitting • Updating BEAs 	<p>A BEA is a document that describes the results of AAI and the sampling and analysis that confirm that the land is a facility or a site (see MCL 324.20101(1)(f) and MCL 324.21302(c)). The AAI or its components must be conducted or updated prior to, or within 45 days after, the date of purchase, occupancy, or foreclosure, whichever is earlier. The BEA must be submitted to the DEQ within six months of the same date to be valid.</p>

<i>Pre-Approved Activities</i>	<i>Guidance</i>
<p><u>Pre-demolition surveys</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Inspections • Sampling and analysis • Reporting 	<p>A pre-demolition survey may be required for a structure that will be partially reused, or if demolition could cause a safety hazard. The survey can evaluate the presence, quantity, and condition of hazardous materials, and/or structural integrity. Pre-demolition surveys do not include asbestos, mold, and lead paint surveys, but may be combined with asbestos, mold, and lead paint surveys described above.</p>
<p><u>Plan for compliance with MCL 324.20107a and MCL 324.21304c (due care) of the NREPA</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Investigation (sampling, analysis, interpretation, and reporting) to define contamination • Assessment of the intended use and site-specific conditions to identify due care requirements • Development of a plan for response activities to meet due care obligations 	<p>An owner or operator who has knowledge that land is a facility or is contaminated has due care obligations under MCL 324.20107a and MCL 324.21304c. In general, the land owner or operator is required to:</p> <ul style="list-style-type: none"> • Prevent unacceptable exposure • Use the land in a manner that is protective of public health and safety • Prevent exacerbation of contamination or acts of a third party that might exacerbate contamination • Provide access to authorized personnel to assess or conduct response activities • Comply with and not impede land use or resource use restrictions <p><i>Implementation of due care is not a Pre-Approved Activity under Act 381, but proposed due care activities can be submitted to the DEQ for approval under Act 381. See below for guidance on due care implementation.</i></p>

Eligible Activities Needing DEQ Approval Prior to Implementation

The following activities require DEQ approval for school TIF. The tables below provide general guidelines that are not meant to be a comprehensive list of all potentially eligible activities. The DEQ should be consulted to assure activity eligibility in any situation not addressed below.

NOTE: Contaminated means a hazardous substance in soil or groundwater in excess of concentrations for unrestricted residential use.

<i>DEQ Eligible Activities*</i>	<i>Guidance</i>
<p><u>Evaluation</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Investigation • Characterization of wastes for landfill disposal • Soil verification sampling 	<p>Evaluation that exceeds AAI requirements or due care compliance falls under this task.</p>

DEQ Eligible Activities*	Guidance
<p><u>Implementing land and/or resource use restrictions (LRURs) and other institutional controls</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Developing a LRUR for the eligible property • Filing restrictions with the county register of deeds • Placing permanent markers to describe restricted contaminated areas and the nature of any restrictions • Protecting the integrity of exposure controls that prevent contact with contaminants 	<p>Institutional controls are legal or administrative tools used to meet obligations under 324.20107a and 324.21304c.</p>
<p><u>Lead, mold, or asbestos abatement</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Proper removal and disposal of lead, mold, or asbestos-containing materials • Air monitoring • Reporting 	<p>Lead, mold, or asbestos abatement may be a DEQ eligible activity when the land is contaminated and the DEQ confirms that lead, mold, and/or asbestos pose an imminent and significant threat to human health.</p> <p>If abatement is not a DEQ eligible activity, it may be an MSF eligible activity.</p>
<p><u>Building demolition (interior, partial, or whole building)</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Deconstruction or select demolition of building elements for reuse or recycling • Proper disposal of non-reusable or non-recyclable building elements • On-site reuse of demolition debris (such as concrete and brick) • Foundation and basement removal 	<p>Building demolition may be a DEQ eligible activity when the land is contaminated and the DEQ confirms that demolition is a response activity.</p> <p>If building demolition is not a DEQ eligible activity, it may be an MSF eligible activity.</p>

DEQ Eligible Activities*	Guidance
<p><u>Site demolition</u></p> <p>May include removal of:</p> <ul style="list-style-type: none"> • Abandoned utilities • Parking lots • Roads • Curbs and gutters • Rail spurs • Sidewalks • Other structures or improvements <p>Backfill, compaction, and rough grading where structures or improvements were located may also be eligible.</p>	<p>Site demolition may be a DEQ eligible activity when the land is contaminated and the DEQ confirms that site demolition is a response activity.</p> <p>If site demolition is not a DEQ eligible activity, it may be an MSF eligible activity.</p>
<p><u>Pumping, treatment, transportation, and/or disposal of contaminated groundwater (dewatering)</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Pumping of accumulated water due to runoff or rain • Treatment and discharge of contaminated groundwater (e.g., National Pollutant Discharge Elimination System [NPDES] permit and storm discharge, discharge to a local sanitary sewer system, etc.) <p>Transportation and disposal of contaminated groundwater (e.g., frac tank transportation and disposal at a licensed disposal facility)</p>	<p>Proper handling of contaminated groundwater may be necessary during redevelopment to comply with due care, or may be a response activity to remediate contamination. Costs for treatment, transportation, and/or disposal of groundwater or accumulated water that would not be incurred on uncontaminated land are not DEQ eligible activities. Further, when land is contaminated, only runoff or rain dewatering (pumping) costs may be DEQ eligible activities.</p> <p>Please note:</p> <ul style="list-style-type: none"> • The DEQ should be consulted when contamination will be left in place and treatment or engineering controls would be less expensive than transportation and disposal. • The lowest-cost feasible option must be provided to the DEQ. Higher-cost alternatives may be proposed, but reimbursement with school TIR will be limited to the equivalent of the lowest-cost feasible option. <p>If dewatering is not a DEQ eligible activity, it may be an MSF eligible activity.</p>

DEQ Eligible Activities*	Guidance
<p><u>Excavation, treatment, transportation, and/or disposal of contaminated soil</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Treatment of contaminated soil • Transportation and disposal of contaminated soil 	<p>Proper handling of contaminated soil may be necessary during redevelopment to comply with due care, or handling may be a response activity to remediate contamination. Costs that would not be incurred on uncontaminated land for treatment, transportation, and/or disposal of contaminated soil are DEQ eligible activities. Excavating unstable contaminated material may be a DEQ eligible activity when the land is contaminated and (1) a government agency (e.g., LUGs, Michigan State Housing Development Authority [MSHDA], United States [U.S.] Department of Housing and Urban Development [HUD], etc.) or lending institution requires removal to finance the project or (2) removal is more protective than required to comply with due care (e.g., a “hot spot” removal, excavation above and beyond what is needed for construction, etc.). Excavation that would otherwise be required for development (such as building foundations) is not an eligible activity.</p> <p>Please note:</p> <ul style="list-style-type: none"> • Contaminated soil should be taken to the nearest appropriate landfill. Alternative disposal locations may be approved by the DEQ. • The DEQ should be consulted when contamination will be left in place and treating or capping would be less expensive than transportation and disposal. • The lowest-cost feasible option must be provided to the DEQ. Higher-cost alternatives may be proposed, but reimbursement with school TIR will be limited to the equivalent of the lowest-cost feasible option. <p>If excavation, transport, and disposal is not a DEQ eligible activity, it may be an MSF eligible activity.</p>
<p><u>Bracing, Sheeting, Shoring</u></p>	<p>Bracing, sheeting, or shoring may be necessary prior to excavation of contaminated material to protect life, the land, or the integrity of the excavation. Sheeting and shoring may be eligible at properties that require a permit pursuant to Parts 301, Inland Lakes and Streams, 303, Wetlands Protection, or 325, Great Lakes Submerged Lands, MCL of NREPA, MCL 324.30101 through 324.30113, 323.30301 through 324.30329, 324.32501 through 324.32516, respectively.</p> <p>If bracing, sheeting and shoring is not a DEQ eligible activity, it may be an MSF eligible activity.</p>

DEQ Eligible Activities*	Guidance
<p><u>Fill (backfill)</u></p>	<p>Clean backfill, placement, and compaction are eligible when removal of soil, tanks, or structures is a DEQ eligible activity. The backfill method and material must be approved by a licensed professional engineer (P.E.) to confirm required soil density. Any fill material may be proposed but reimbursement with school TIR will be limited to the equivalent of the lowest-cost feasible option, as determined by a P.E.</p> <p>If fill is not a DEQ eligible activity, it may be an MSF eligible activity.</p>
<p><u>Engineering controls</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Vapor intrusion mitigation systems • Infiltration prevention and diversion barriers (e.g., topsoil, grass, mulch, gravel, asphalt, concrete or other acceptable cover) • Direct contact exposure barriers (six inches of topsoil, seed, and mulch, unless otherwise approved by the DEQ) 	<p>When contamination is left in place, engineering controls or other options to comply with due care obligations may be necessary. Activities under this task may include design and construction or installation of engineering controls to prevent exposure, exacerbation, or third party impacts.</p> <p>If the DEQ requires a barrier that exceeds standard thickness, then reimbursement with school TIR will be limited to the incremental increase in costs to meet the requirement. For example, an asphalt parking lot of standard thickness may be an engineering control, but not DEQ eligible. If the asphalt needs to be two inches thicker than standard to serve as an engineering control, the incremental cost for the extra two inches may be DEQ eligible.</p> <p>Alternatives may be proposed, but reimbursement with school TIR will be limited to the equivalent of the lowest-cost feasible option.</p> <p>Please consult with the DEQ to ensure that proposed engineering controls will achieve due care compliance.</p>
<p><u>Interim response</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Cleanup or removal of a released hazardous substance • Measures to limit access to land • Water supply replacement • Temporary relocation of people • Actions that prevent, minimize, or mitigate a threatened release 	<p>Interim response is conducted prior to a remedial action and prevents, minimizes, or mitigates injury to public health, safety, or welfare, or to the environment.</p>

DEQ Eligible Activities*	Guidance
<p><u>Remedial action</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Cleanup, removal, containment, isolation, destruction, or treatment of a hazardous substance released or threatened to be released into the environment • Monitoring, maintenance, or other actions at the DEQ's discretion 	<p>Remedial actions are those activities undertaken to prevent, minimize, or mitigate injury to public health, safety, or welfare, or to the environment.</p>
<p><u>Container removal</u></p> <p>May include categorizing, staging, removing, and properly disposing of:</p> <ul style="list-style-type: none"> • Hazardous materials • Drums • Hoists • Hoist tanks • Above ground storage tanks • Containers (except underground storage tanks) containing hazardous materials 	<p>Container removal necessary to comply with due care obligations or mitigate future releases may be eligible.</p>
<p><u>Industrial cleaning</u></p>	<p>May include cleaning walls, floors, pits, or drains to allow new tenants to reuse an existing structure, install equipment, or complete interior renovations.</p>
<p><u>Disposal of solid waste</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 Part 115, Solid Waste Management, of NREPA, MCL 324.11506 of the NREPA, 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 landfills is not an eligible activity.</p>
<p><u>Environmental insurance</u></p>	<p>Liability insurance for environmental contamination and cleanup that is not required by state or federal law is an eligible activity. A copy of the insurance policy must be provided to the DEQ to ensure applicability of the coverage to land conditions.</p>

DEQ Eligible Activities*	Guidance
<p><u>Dust control</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Spraying, misting or hosing down a demolition or construction area with water to minimize on- and off-site dust that may impact air quality • Minimizing soil disturbance • Applying cover • Surface roughening 	<p>Dust control includes actions necessary to prevent or reduce the surface and air transport of dust during demolition and construction. Other activities related to general construction that require an air permit or air monitoring may be considered by the DEQ as an eligible activity.</p>
<p><u>Specialized foundations</u></p>	<p>Construction of specialized foundations on contaminated land may be a DEQ eligible activity when a cost-benefit analysis provided by a licensed P.E. demonstrates that the cost of specialized foundations would be less than the cost for transportation and disposal of contaminated material.</p> <p>If a specialized foundation is not a DEQ eligible activity, it may be an MSF eligible activity.</p>
<p><u>Dredging in waterways</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Dredging • Testing • Transportation and disposal to a licensed waste disposal facility • Upland disposal or cover, provided that on-site disposal does not result in contaminated land 	<p>Removal, transportation and proper disposal of sediment from navigable waterways may be a DEQ eligible activity if</p> <ol style="list-style-type: none"> (1) sediments pose a risk to human health and dredging is a response activity, (2) dredging is tied to an economic development project with a committed developer, and the upland parcel(s) is contaminated, or (3) the sediment is contaminated and would create or exacerbate contaminated land if deposited on the upland parcel(s). <p>The DEQ should be consulted prior to sediment removal for preliminary evaluation of eligibility and to ensure that permits are in place.</p> <p>If dredging is not a DEQ eligible activity, it may be an MSF eligible activity.</p>

DEQ Eligible Activities*	Guidance
<p><u>Unanticipated response activities</u></p>	<p>Response activities to address unexpected conditions encountered during development and not originally included in a Brownfield Plan, combined Brownfield Plan, or Work Plan may be reimbursed with school TIR if:</p> <ol style="list-style-type: none"> (1) The eligible property is already included in a brownfield plan; (2) The DEQ is consulted in writing before the activities are conducted or costs incurred. Eligible activity costs must be specifically itemized via email or letter to the district supervisor in the district where the project is being conducted; and (3) The activities are included in a Brownfield Plan and Work Plan or combined Brownfield Plan within six months after the approval of unanticipated costs. <p>The BRA must submit a Work Plan and approved revised brownfield plan to the DEQ for review and approval of the unanticipated activities. The DEQ must reply to the revised Work Plan in writing before unanticipated response activities are approved.</p>
<p><u>Other DEQ specific activities</u></p>	<p>The DEQ may approve other actions necessary to protect public health, safety, welfare, or the environment, including actions that are more protective than required to comply with due care. The DEQ will consider</p> <ol style="list-style-type: none"> (1) the proposed land use and reliability of restrictions to prevent exposure; (2) the least cost alternative; and (3) the long-term obligations associated with leaving contamination in place.

****Soft costs (e.g., engineering, design, legal services, oversight, project management, reporting, etc.) and temporary costs (e.g. staking, land control, soil erosion and sedimentation control, construction access roads, truck washes, traffic control, facility, utilities, etc.) may be DEQ eligible activities.***

Part 8 - MSF Non-Environmental Eligible Activities Guidance

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 a DEQ Work Plan should not be part of an MSF eligible activity request. If contamination is present, consultation with the DEQ 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 DEQ 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, 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 • 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 DEQ 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 DEQ approval.</p>

<i>Infrastructure Improvements – Activity Available to <u>Qualified Local Governmental Units Only</u></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>
<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 DEQ approval.</p>

<i>Infrastructure Improvements – Activity Available to <u>Qualified Local Governmental Units Only</u></i>	<i>Guidance</i>
<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 Only</u></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 • Water leads or taps • Private utilities/services (project communication lines, networks, fiber optics, cable lines, etc.) 	

<i>Site Preparation – Activity Available to Qualified Local Governmental Units 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 Governmental Units Only</u>	Guidance
<p><u>Dewatering</u></p>	<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 DEQ approval.</p>
<p><u>Dredging in waterways</u></p> <p>May include:</p> <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 DEQ approval.</p>
<p><u>Excavation for unstable material (e.g., urban or historic fill)</u></p>	<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 purposes 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>

Site Preparation – Activity Available to <u>Qualified Local Governmental Units Only</u>	Guidance
<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 Qualified Local Governmental Units 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>
<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><i>Site Preparation – Activity Available to Qualified Local Governmental Units Only</i></p>	<p><i>Guidance</i></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>
<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>

<i>Site Preparation – Activity Available to <u>Qualified Local Governmental Units Only</u></i>	<i>Guidance</i>
<u>Staking</u>	Prior to the commencement of site work, construction staking may be allowed for the completion of MSF eligible activities.
<u>Temporary construction access and/or roads</u> May include: <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 	
<u>Temporary erosion control</u> May include: <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 	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.
<u>Temporary facility</u>	A structure permitted by the local building codes, and used temporarily during construction, development, land balancing, or soil extraction.

<i>Site Preparation – Activity Available to <u>Qualified Local Governmental Units Only</u></i>	<i>Guidance</i>
<u>Temporary sheeting and shoring</u>	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.
<u>Temporary site control</u> May include: <ul style="list-style-type: none"> • Fencing • Posts • Gates • Locking devices • Guardrails • Signage • Lighting 	In certain instances, it may be necessary to temporarily secure the project site to protect human health or the project investment.
<u>Temporary traffic control</u> May include: <ul style="list-style-type: none"> • Road closure • Signage • Barricades • Lights • Guards • Flaggers 	This task may be allowed and may include those items necessary to control the flow of traffic as required and approved by governing authorities.
<u>Specific and unique activities</u>	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.

<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="764 863 1167 1159"> <thead> <tr> <th>Number of Projects</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>5 or Fewer</td> <td>\$100,000</td> </tr> <tr> <td>6 to 10</td> <td>\$125,000</td> </tr> <tr> <td>11 to 15</td> <td>\$150,000</td> </tr> <tr> <td>16 to 20</td> <td>\$175,000</td> </tr> <tr> <td>21 to 25</td> <td>\$200,000</td> </tr> <tr> <td>26 to 30</td> <td>\$300,000</td> </tr> <tr> <td>31 or more</td> <td>\$500,000</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	\$100,000	6 to 10	\$125,000	11 to 15	\$150,000	16 to 20	\$175,000	21 to 25	\$200,000	26 to 30	\$300,000	31 or more	\$500,000
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31 or more	\$500,000																
<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 or Work Plan preparation or implementation, or for previously-conducted activities. The MSF will approve the 15% contingency only on approved eligible activities.</p>																

Miscellaneous – Activity Available Statewide	Guidance
<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. MEDC may determine its support for interest based on a needs analysis, taking all financing into consideration, 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. The BRA has the ability to cap the amount of interest and the MSF will not support more than the capped amount. 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 DEQ 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 or Work Plan implementation, including, but not limited to, tracking, submittal, review of invoices for reimbursement, plan compliance, and data reporting, but cannot exceed \$30,000</p>	<p>If a Plan includes MSF and DEQ eligible activities, the maximum school TIR for Plan implementation remains at \$30,000 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"> • 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 a DEQ or MSF 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 9 - Schedule 1 - Eligible Activities Table

DEQ Eligible Activities Costs and Schedule		
DEQ Eligible Activities	Cost	Completion Season/Year
Department-Specific Activities		
<i>Itemize Site Assessment and BEA Activities</i>		
<i>Itemize Pre-Demo, Hazardous Material, Lead, Mold, and Asbestos Surveys</i>		
<i>Itemize Due Care</i>		
<i>Itemize Response Activities</i>		
<i>Itemize Environmental Insurance</i>		
DEQ Eligible Activities Subtotal		
Contingency (Indicate %)*		
Interest (Indicate %)**		
Brownfield Plan and/or Work Plan Preparation***		
Brownfield Plan and/or Work Plan Implementation****		
DEQ Eligible Activities Total		

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		

*The DEQ and MSF allow up to a 15% contingency.

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

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

****The DEQ and MSF allow up to a total of \$30,000 for Brownfield Plan and/or Work Plan implementation including, but not limited to, tracking and reporting of data and Plan compliance.