

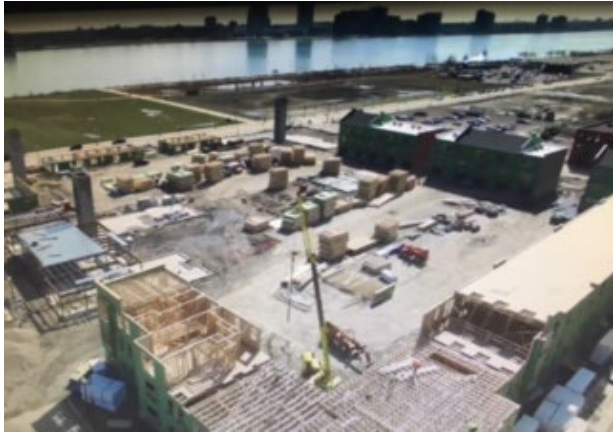


Act 381

Work Plan

Guidance

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



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<http://www.michigan.gov/egleBrownfields>



Orleans Landing Redevelopment – City of Detroit



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<https://www.miplace.org/programs/brownfield-tax-increment-financing/>

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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 recommend approval of local Brownfield Plans and submit Act 381 Work Plans (Work Plans) for approval to the state that help revitalize, redevelop, and reuse contaminated, blighted, functionally obsolete, or historic resources. 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) and the Michigan Strategic Fund (MSF). 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.

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.

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

ACRONYMS OR DEFINITIONS

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
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

State tax increment revenue also referred to as “school” tax increment revenue – 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, functionally obsolete, blighted, historic resource, transit-oriented property/development, adjacent and contiguous, or in a targeted redevelopment area as defined in Act 381 and described below.

Properties are tax identification parcels that have corresponding legal descriptions.

“Facility” including a facility, site or property as defined in 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, means land that is, contaminated by hazardous substances or petroleum products at a level that exceeds state cleanup criteria. If facility status is being used to determine property eligibility, sufficient evidence of facility status must be submitted to EGLE in order 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.

"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 will 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 EGLE eligible activities 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. 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 EGLE 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.

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)). Eligible activities may be conducted using only local TIR without EGLE approval of a Work Plan or Combined Brownfield Plan.

Any costs incurred for MSF eligible activities prior to approval of the Brownfield Plan, Work Plan, or combined Brownfield Plan are made at the developer's risk and with the understanding that State Tax capture may not be approved for those activities. The MSF understands that there are often practical reasons that some non-environmental 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 up to the lesser 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.

*Refer to EGLE and MSF Eligible Activities Table below (Part 9 - Schedule 1) for further guidance. Refer to EGLE Work Plan Eligible Activity Guidance (Attachment 1) for additional information regarding the minimum level of detail necessary to justify eligible activities and their associated expenses. **Please note the EGLE 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 state taxes:

- Site improvements
- Land acquisition (except by a LBFTA in certain circumstances)
- Interest on Brownfield or Work Plan preparation and/or implementation costs
- Registration fees, including registration of an underground storage tank
- Taxes (except sales tax)
- Third party damages
- Insurance (except environmental insurance as provided in Act 381 Section 2(p))

General MSF Project Programming 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 into 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.

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 shall be identified to begin within five years from the Brownfield Plan approval date 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. 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 both EGLE 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 EGLE 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 approval from EGLE and/or MSF 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 tax; under Act 381 the ISD tax 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 local and school tax capture is limited to the actual cost of eligible activities approved by EGLE 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 EGLE and/or MSF 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. Alternatively, the local support could be achieved through another local source such as an abatement, or other approved local contribution rather than the local brownfield tax increment revenue.

If the local and state contributions are not proportional per the guidance above, 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 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 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

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 responsible party, and assuring that plans submitted for EGLE 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 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 or Combined Brownfield 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 use of State Taxes for non-environmental activities. The MSF may consider 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 staff will coordinate with EGLE when reviewing the project.

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.
- Excess state TIR may not be captured on eligible activities approved by the MSF for deposit into the LBRF.
- 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.

The BRA may use the LBRF to pay the costs of eligible activities on eligible properties and to pay the costs of activities outlined in Section 13b(8) on properties suspected to be contaminated.

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 Department Specific school TIR approved for capture) for the LBRF.

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 school TIR will be used to reimburse the cost of certain environmental activities or any non-environmental activities, EGLE and/or the MSF must approve a Work Plan. The MSF Chairperson or delegates may approve a Work Plan with capture of state TIR for non-environmental 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 Combined Brownfield Plan, a combination of a Brownfield Plan and a Work Plan, contains all of the statutory information required in a Brownfield Plan and 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. The Combined Brownfield Plan should be introduced to the local authority and state agency concurrently in order to alleviate unnecessary delays. 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 state TIR will be used to reimburse the cost of certain environmental activities or any non-environmental activities, EGLE and/or the MSF must approve a Combined Brownfield Plan. The MSF Chairperson or delegates may approve a Combined Brownfield Plan with capture of state TIR for non-environmental eligible activities of \$1,000,000 or less, unless combined with any other MSF incentive the total approved award exceed \$1,000,000, then the project would go to the full MSF Board for approval.

The BRA must notify EGLE 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. However, as noted above it is in the projects best interest to introduce the Combined Brownfield Plan to EGLE and/or MSF 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.

Prior to submission of a Work Plan or Combined Brownfield Plan, EGLE 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 or Combined Brownfield Plan, prevent inclusion of ineligible activities, and reduce agency review time.

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) 241-6730.

Submission

Prior to submission of a Work Plan or Combined Brownfield Plan to EGLE 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 or Combined Brownfield 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. [EGLE Brownfield Coordinators](#) should be the first point of contact for Work Plans that propose EGLE eligible activities.

The Work Plan or Combined Brownfield Plan must be submitted to EGLE 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. The Combined Brownfield Plan must include a copy of the resolution approved by the governing body of the municipality. For EGLE Work Plans or Combined Brownfield Plans, a signed transmittal letter from the BRA or local government representative must be submitted. For MSF Work Plans or Combined Brownfield Plans, please wait for staff to request the transmittal letter. For projects that have both EGLE and MSF eligible activities, one Work Plan or Combined Brownfield Plans that includes both EGLE and MSF eligible activities should be prepared and submitted concurrently to both agencies.

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

For eligible activities requiring EGLE review: send an electronic copy of the documents to EGLE-brownfields@michigan.gov and to your [Brownfield Coordinator](#). Hard copy documents will not be accepted. EGLE Remediation and Redevelopment Division – General Contacts: EGLE-brownfields@michigan.gov or 517-281-8253.

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 Brownfield Assessment and Redevelopment Section (BARS) and MEDC.

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.

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. There are exceptions to EGLE approval in Act 381 Sections 15(5) and (6) regarding timelines. Response letters will be issued under signature of EGLE Remediation and Redevelopment Division Brownfield Assessment and Redevelopment Section.

EGLE staff will review the Work Plan or Combined Brownfield 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

EGLE will reply pursuant to Act 381 Section 15(2) with one, or more, of the following written responses:

- An approval.
- A conditional approval. In this situation, the Work Plan or Combined Brownfield Plan including the proposed activity(ies) in question would be considered appropriate and approvable with specific necessary modifications. The determination will include the specific modifications necessary to achieve full approval from EGLE including, but not limited to, modifying, adding, or deleting individual activities from the Work Plan or Combined Brownfield Plan and revising costs.
- Insufficient information. In this situation, the Work Plan or Combined Brownfield Plan lacks

sufficient information for EGLE to make a determination on a specific activity. The response from EGLE will specify the information needed for EGLE to consider the activity(ies) for a determination.

- A denial. In this situation, EGLE will issue a denial if the property is not an eligible property, if the Work Plan or Combined Brownfield Plan proposes the use of school TIR that benefits a liable party, for any activity conducted before approval of the Brownfield Plan or Combined Brownfield Plan, or for any activity that is deemed ineligible in accordance with Act 381. EGLE will state the reason for the denial. If EGLE denies all or a portion of a Work Plan or Combined Brownfield Plan, the BRA may resubmit the Work Plan or Combined Brownfield Plan.

The statute requires a written response regarding Work Plan or Combined Brownfield 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. This information also applies to Combined Brownfield Plans.

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 EGLE or MSF for those activities and their costs, or approve the additional costs and pay for them with local taxes. For Combined Brownfield Plans, a formal amendment by the Authority and the local governing body will require a formal amendment by EGLE and/or MSF if state TIR will be used to reimburse the cost of amended activities.

Reasonable Costs

Act 381 requires EGLE 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 or Combined Brownfield Plan are reasonable, and provide justification to EGLE and MSF.

Please see Attachment 1 – EGLE Work Plan Eligible Activity Guidance for additional information regarding the minimum level of detail necessary to justify eligible activities and their associated expenses.

Fifteen Percent (15%) Contingency

A maximum fifteen percent (15%) contingency 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, or Combined Brownfield Plan preparation or implementation, interest, or for activities conducted prior to Work Plan or Combined Brownfield Plan submittal. EGLE and MSF will approve the fifteen percent contingency only on the approved eligible activities. Contingency may only be used to cover extra costs of activities approved in a Work Plan or Combined Brownfield Plan. 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. EGLE 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. EGLE 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.

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

Please be aware that failure to report by the deadline may result in the MSF 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 – 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 school TIF. EGLE considers site-specific brownfield conditions, applicable laws, regulations and established policy when evaluating eligibility. EGLE staff may request additional information before determining eligibility for school TIF.

Use of the information provided in this section, and in the attached EGLE Brownfield Program Eligible Activity Guidance Document (Attachment 1), should be used when preparing your Work Plan for EGLE approval. It will facilitate consistent, accurate, efficient, and timely completion of Work Plan review. The information below and as provided in Attachment 1 of this document is based on current policy and statute and supersedes previous Act 381 guidance.

Please note, EGLE 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.

Activities Exempt from EGLE Approval

According to Act 381 Section 13b(7) and (8), school TIR can be used for the following activities without approval by EGLE 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>

<i>Pre-Approved Activities</i>	<i>Guidance</i>
<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 EGLE within six months of the same date to be valid.</p>
<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>Site investigation to evaluate and prepare for compliance with MCL 324.20107a and MCL 324.21304c (due care) of the NREPA and preparing a plan for compliance with due care</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 • Design for engineering controls including vapor mitigation systems may be considered part of preparing a plan for compliance with due care. 	<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 EGLE for approval under Act 381. See below for guidance on due care implementation.</i></p>

Eligible Activities Needing EGLE Approval Prior to Implementation

The following activities require EGLE approval for school TIF. The tables below provide general guidelines that are not meant to be a comprehensive list of all potentially eligible activities. EGLE 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>EGLE 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 either or both, AAI requirements and preparation for compliance with due care falls under this task.</p>
<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 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.</p> <p>If abatement is not an EGLE eligible activity, it may be an MSF eligible activity.</p>

<i>EGLE Eligible Activities*</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"> • 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 an EGLE eligible activity when the land is contaminated and EGLE confirms that demolition is a response activity.</p> <p>If building demolition is not an EGLE eligible activity, it may be an MSF eligible activity.</p>
<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 an EGLE eligible activity when the land is contaminated and EGLE confirms that site demolition is a response activity.</p> <p>If site demolition is not an EGLE eligible activity, it may be an MSF eligible activity.</p>

<i>EGLE Eligible Activities*</i>	<i>Guidance</i>
<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 be incurred on uncontaminated land are not EGLE eligible activities. Further, when land is contaminated, only runoff or rain dewatering (pumping) costs may be EGLE eligible activities.</p> <p>Please note:</p> <ul style="list-style-type: none"> • EGLE 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 EGLE. 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 an EGLE eligible activity, it may be an MSF eligible activity.</p>

<i>EGLE Eligible Activities*</i>	<i>Guidance</i>
<p><u>Proper handling of contaminated soil</u></p> <p>May include:</p> <ul style="list-style-type: none"> • Excavation • Treatment of contaminated soil • Transportation and disposal of contaminated soil • Bracing, sheeting, and shoring to support the excavation 	<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 EGLE eligible activities. Excavating unstable contaminated material may be an EGLE 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 EGLE. • EGLE 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 EGLE. 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 an EGLE 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 an EGLE eligible activity, it may be an MSF eligible activity.</p>

<i>EGLE Eligible Activities*</i>	<i>Guidance</i>
<p><u>Fill (backfill)</u></p>	<p>Clean backfill, placement, and compaction are eligible when removal of soil, tanks, or structures is an EGLE eligible activity. The backfill method and material must be approved by a licensed professional engineer (P.E.) to confirm required soil density and origin. 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 an EGLE 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 EGLE) 	<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 construction or installation of engineering controls to prevent exposure, exacerbation, or third party impacts.</p> <p>If EGLE 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 EGLE 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 EGLE 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 EGLE to ensure that proposed engineering controls will achieve due care compliance.</p>

<i>EGLE Eligible Activities*</i>	<i>Guidance</i>
<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 • Temporary air purifying technology 	<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>
<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 EGLE’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>

<i>EGLE Eligible Activities*</i>	<i>Guidance</i>
<p><u>Underground Storage Tank Removal (UST) and Closure</u></p> <p>May include:</p> <ul style="list-style-type: none"> • UST excavation, cleaning, sampling of contents, removal, transportation and disposal and/or recycling • Investigation, assessment, and/or sampling including but not limited to, confirmation, verification, delineation, etc. • Backfill of UST cavity • Closing in place (only when necessary) • Source contaminant removal associated with UST • Other closure activities including, but not limited to, reporting, oversight, project management, etc. 	<p>UST removal and closure pursuant to Part 211 and 213</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 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>

<i>EGLE Eligible Activities*</i>	<i>Guidance</i>
<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 EGLE to ensure applicability of the coverage to land conditions.</p>
<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 EGLE as an eligible activity.</p>
<p><u>Specialized foundations</u></p>	<p>Construction of specialized foundations on contaminated land may be an EGLE 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. Only the cost above and beyond the cost of traditional foundations will be considered. The cost benefit analysis should be included in the work plan.</p> <p>If a specialized foundation is not an EGLE eligible activity, it may be an MSF eligible activity.</p>

<i>EGLE Eligible Activities*</i>	<i>Guidance</i>
<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 an EGLE 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>EGLE 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 an EGLE eligible activity, it may be an MSF eligible activity.</p>
<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) EGLE 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 Brownfield Coordinator in the district where the project is being conducted and the appropriate party must concur before activities are 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 EGLE for review and approval of the unanticipated activities. EGLE must reply to the revised Work Plan in writing before unanticipated response activities are approved.</p>

<i>EGLE Eligible Activities*</i>	<i>Guidance</i>
<u>Other EGLE specific activities</u>	<p>EGLE 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. EGLE 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 EGLE eligible activities if they are directly related to an approved Department specific activity. Generally, only a small portion of these costs is eligible. The eligibility of these costs should be discussed with the appropriate brownfield coordinator prior to submission of a Work Plan.***

Part 8 - 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 • Sheet piling/shoring to protect adjacent buildings, structures or improvements during foundation and basement removals • Fill, compaction and rough grading to balance the site where 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 and Land Bank controlled properties 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 EGLE approval.</p>

<p><i>Infrastructure Improvements – Activity Available to <u>Qualified Local Governmental Units and Land Bank controlled properties Only</u></i></p>	<p><i>Guidance</i></p>
<p><u>Public right-of-way or private property</u> 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>

<p><i>Infrastructure Improvements – Activity Available to <u>Qualified Local Governmental Units and Land Bank controlled properties Only</u></i></p>	<p><i>Guidance</i></p>
<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>

<p><i>Site Preparation – Activity Available to Qualified Local Governmental Units and Land Bank controlled properties Only</i></p>	<p><i>Guidance</i></p>
<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 EGLE 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 EGLE 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>

<p><i>Site Preparation – Activity Available to <u>Qualified Local Governmental Units and Land Bank controlled properties Only</u></i></p>	<p><i>Guidance</i></p>
<p><u>Fill</u></p>	<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>
<p><u>Foundation work to address special soil concerns</u></p>	<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>

<p><i>Site Preparation – Activity Available to <u>Qualified Local Governmental Units and Land Bank controlled properties Only</u></i></p>	<p><i>Guidance</i></p>
<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 <u>Qualified Local Governmental Units and Land Bank controlled properties Only</u></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>

<p><i>Site Preparation – Activity Available to <u>Qualified Local Governmental Units and Land Bank controlled properties Only</u></i></p>	<p><i>Guidance</i></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 	
<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><i>Site Preparation – Activity Available to <u>Qualified Local Governmental Units and Land Bank controlled properties Only</u></i></p>	<p><i>Guidance</i></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>
<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="768 863 1175 1268"> <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 to 53</td> <td>\$500,000</td> </tr> <tr> <td>54 to 73</td> <td>\$700,000</td> </tr> <tr> <td>74 to 98</td> <td>\$900,000</td> </tr> <tr> <td>99 or more</td> <td>\$1,000,000</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	\$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 to 53	\$500,000	54 to 73	\$700,000	74 to 98	\$900,000	99 or more	\$1,000,000
Number of Projects	Amount																						
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99 or more	\$1,000,000																						
<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>																						

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. 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 \$30,000</p>	<p>If a Plan includes MSF and EGLE 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 an EGLE 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

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

* EGLE and MSF allow up to a 15% contingency.

**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 activities instead of the interest rate approved in the Brownfield Plan. Contact EGLE for current loan rates.

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

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

Attachment 1 – EGLE Work Plan Eligible Activity Guidance

ELIGIBLE ACTIVITY GUIDANCE

In order to gain approval for eligible activities by the Michigan Department of Environment, Great Lakes and Energy (EGLE), at a minimum, the work plan must:

- Demonstrate that the activities are eligible and an explanation of why;
- Describe how activities will be protective of public health, safety, and welfare, and the environment; and
- Detail how activities are cost effective and will be implemented or accomplished including methods, drawings, quantities, unit costs, etc. Additional information necessary may include, but is not limited to, the nature and extent of contamination, the location, depth, volume, disposal locations, how cost estimates were determined, and rationale that the lowest cost alternative method is used or was considered.

For additional guidance, the document below contains a list of typical eligible activities and the level of detail the Department is looking for in a work plan. If this is a grant/loan work plan, “Tasks” should be in line with the broad tasks presented in Appendix A of the grant/loan agreement, followed by individual eligible activities/sub-activities.

For the purpose of this work plan, “Tasks”, “Activities”, and “Sub-Activities” are defined as follows:

- Tasks: are the broad category tasks as provided in Appendix A of the grant/loan agreement
- Activities: are high level category activities (e.g., Phase I Environmental Site Assessment [ESA], Phase II ESA, contaminated soil management, vapor mitigation system [VMS], etc.) that may or may not have more detailed components or sub-activities, as defined below
- Sub-Activities: are the detailed components of an activity (e.g., drilling, ground penetrating radar [GPR], laboratory analytical, field work, reporting, transportation, disposal, waste characterization, oversight, project management, contractor procurement, design, installation, performance monitoring, etc.)

Example:

Assessment (Task)
Phase I ESA (Activity)
Phase II ESA (Activity)
Drilling (Sub-Activity)
GPR (Sub-Activity)
Laboratory Analytical (Sub-Activity)
Field Work (Sub-Activity)
Reporting (Sub-Activity)
Baseline Environmental Assessment (Activity)

ELIGIBLE ACTIVITIES

General Notes:

- *With all items provided below, this is not a comprehensive list but rather a tool to help understand the level of detail the Department is looking for in a work plan in accordance with*

state brownfield statutes and policies. Please use your professional judgement, and include, modify, add or delete information as appropriate to your project and eligible activities.

- The level of detail below for Assessment and Investigation activities is only required for a Grant/Loan Work Plan and not for Act 381.
- In accordance with state brownfield statutes and policies brownfield redevelopment grants used solely for assessment purposes must:
 - Identify future potential limitations on the use of the property based on the environmental conditions identified in the assessment; and
 - Include an estimate of due care and/or response activity costs based on the environmental conditions identified in the assessment.
- If this work plan includes costs for soft costs (e.g., contractor procurement, engineering, design, legal services, oversight, project management, reporting) or temporary costs (e.g., staking, land control, soil erosion and sedimentation control, construction access roads, truck washes, traffic control, facility, utilities, etc.) in association with an eligible activity please provide the following with each associated activity below:
 - A detailed scope of work, breakdown of costs provided in Table 1, and locations of activities/sub-activities on Figures; and
 - Justification of why the activity/sub-activity is associated with an eligible activity and not a normal cost of development and a demonstration that only the additional incremental cost associated with the eligible activity beyond the cost associated with the normal cost of development is included.

Phase I ESA

If this work plan includes costs for a Phase I ESA, at a minimum this section should provide the following:

- Reason, scope of work, and referenced standards for the Phase I ESA

Asbestos and Hazardous Materials Survey

If this work plan includes costs for an Asbestos and Hazardous Materials Survey, at a minimum this section should provide the following:

- The standards and regulations that survey will be based on
- A general or detailed scope of work of the survey depending on what is known
- Estimated number and type of samples planned to be collected (e.g. potential asbestos containing materials [PACM], waste characterization, lead based paint [LBP], etc.), if known
- If sampling is planned, please refer to the “Phase II ESA/Subsurface or Other Investigation guidance below

Phase II ESA/Subsurface or Other Investigation

If this work plan includes costs for a Phase II ESA/subsurface investigation or other investigation, at a minimum this section should read like a sampling and analysis plan (SAP) and provide the following:

- Purpose for conducting the Phase II ESA/subsurface investigation/supplemental subsurface investigation (e.g., due diligence, characterization, due care investigation, etc.)
- The standards, if any, the investigation is based on
- A detailed scope of work of what the investigation will entail (e.g., ground penetrating radar, test pits, hand auger borings, geo-probe borings, hollow-stem auger borings, wells to be installed, soil vapor points to be installed, media to be sampled and analyzed, field and lab

quality assurance/quality control [QA/QC], waste characterization, methodologies, reports prepared)

- Number of samples
- Sample locations provided on an attached Figure
- Laboratory analytical planned for samples collected
- Data quality objectives (DQO) (e.g., decision units, methodology, etc.) if incremental sampling is proposed (*Please note additional information may be necessary*)

Baseline Environmental Assessment

If this work plan includes costs for a Baseline Environmental Assessment (BEA), at a minimum this section should provide the following:

- Narrative of the scope of work

Plan for Compliance with Section 20107a and/or 21304c

If this work plan includes costs for preparing a Plan for compliance with Section 20107a and/or 21304c, at a minimum this section should provide the following:

- Narrative for scope of work

Lead, Asbestos, Mold Abatement and Demolition (Note: these activities would need to be considered a response activity under Act 381)

If this work plan includes costs for lead, asbestos, mold abatement or demolition, at a minimum this section should provide the following:

- A detailed scope of work for each activity/sub-activity associated with lead, asbestos, mold abatement or demolition (e.g., removal of ACM, removal or encapsulation of lead paint, removal of mold, site demolition, building demolition, interior and/or partial demolition, etc.)
- If this lead, mold, or asbestos abatement is considered an imminent and significant threat to human health, justification that it is
- If this demolition activity is considered a response activity under a grant/loan, justification that the demolition is necessary due to contamination, to access contamination, or to protect public health, safety, and welfare and the environment
- If this demolition activity is not considered a response activity under a grant/loan, justification that the combined costs of activities including disposal of solid waste, lead, asbestos, or mold abatement, and demolition that is not related to contamination, removal and disposal of contaminated lake or river sediments are less than the cost of eligible environmental activities
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures

Transportation and Disposal of Contaminated Material

If this work plan includes costs for transportation and disposal of contaminated material (e.g., soil, urban fill, etc.), at a minimum this section should provide the following:

- A detailed scope of work for each activity/sub-activity associated with transportation and disposal of contaminated material (e.g., transportation, disposal, waste characterization, etc.)
- A breakdown of costs for each activity/sub-activity provided in Table 1 including unit costs per ton or yard, etc.
- Locations of activities provided on an attached Figure

- Justification that the material being transported and disposed of is contaminated
- Justification of why the activity/sub-activity is associated with due care and not a normal cost of development
- Maps provided as figures with descriptions of where the contaminated material will be removed from
- Estimated quantities of material to be removed
- Estimated dimensions of material to be removed

Contaminated Source Soil Removal

If this work plan includes costs for contaminated source soil removal, at a minimum this section should provide the following:

- A detailed scope of work for each activity/sub-activity associated with contaminated source soil removal (e.g., excavation, transportation, disposal, waste characterization, backfill, compaction, surveying and staking, etc.)
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Justification that the material being transported and disposed of is a source area of contamination
- Justification of why the activity/sub-activity is a response activity and not a normal cost of development
- Maps provided as figures with descriptions of where the contaminated material will be removed from
- Estimated quantities of material to be removed
- Estimated dimensions of material to be removed

On-Site Soil Management

If this work plan includes costs for on-site soil management (e.g., relocation, berming, fill, cover, etc.) at a minimum this section should provide the following:

- A detailed scope of work for each activity/sub-activity associated with on-site soil management
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures
- Justification that the soil being managed on site is contaminated
- Justification of why the activity/sub-activity is associated with due care and not a normal cost of development (i.e., land balancing, etc.) or a demonstration that only the additional incremental cost beyond the cost associated with the normal cost of development is included

Container Removal

If this work plan includes costs for container (e.g., hazardous materials, drums, hoists, hoist tanks, above ground storage tanks, etc.) removal, at a minimum this section should provide the following:

- A detailed scope of work including, but not limited to, containers to be removed, quantities, waste characterization necessary, methodologies, etc.
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures

Dewatering

If this work plan includes costs for dewatering, at a minimum this section should provide the following:

- A detailed scope of work for each activity/sub-activity associated with dewatering (e.g., pumping (*note: pumping is generally considered a normal cost of development*), treatment, transportation, and/or disposal of contaminated groundwater, etc.)
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures
- Justification that the groundwater is contaminated or that dewatering is limited to runoff or rain event dewatering on contaminated land
- Justification of why the activity/sub-activity is associated with due care and not a normal cost of development
- A cost-benefit analysis that demonstrates how the proposed cost is the least cost alternative for dewatering (e.g. frac tank/trucking and disposal, National Pollutant Discharge Elimination System [NPDES] permit and discharge, groundwater discharge [permit or via Part 22 District approval], or discharge to a local sanitary system, etc.)

Vapor Mitigation System

A work plan including a VMS must be approved by the vapor intrusion (VI) specialist or VI technical and program support (TAPS) team within EGLE. Depending on response times of the developer's design team, this approval could take an average of 60 days from receipt of a complete plan. It is recommended to consult with your brownfield coordinator and technical project manager early when a VMS is proposed. Please contact your brownfield coordinator for the most recent versions of the following checklists:

- Checklist for Developing a Conceptual Site Model (CSM)
- Checklist for Reviewing the Design of a Passive Mitigation System
- Checklist for Reviewing the Design of an Active Mitigation System

Note: It would help your review to include the appropriate checklist(s) along with associated page numbers and/or references with your submittal

Some commonly missed items include:

- Data to identify site contaminants in all media and their potential migration pathway
- Data sufficient to support mitigation choice
- Written description of each component and activity/sub-activity associated with the VMS
- Building layout
- Engineered VMS design and figures with locations of VMS components including, but not limited to, barrier, ventilation configuration, calculations demonstrating flow, radius of influence, and air quality exemptions, installation verification, testing, and quality assurance/quality control, signage, and performance monitoring components
- VMS technical specifications including demonstration that the barrier or system is protective of the contaminants on the property
- Installation/commissioning report to demonstrate as built system
- Performance monitoring plan

- Operations and maintenance plan
- A breakdown of costs for each component and/or activity/sub-activity provided in Table 1

Direct Contact Barrier

If this work plan includes costs for a direct contact barrier, at a minimum this section should provide the following:

- A detailed scope of work for the direct contact barrier (e.g., thickness, material, specifications, justification that the barrier is protective of the contaminants on site, etc.)
- Justification that the barrier is warranted (e.g., contaminated soil near the surface is contaminated above direct contact criteria over the entire area of the proposed barrier, etc.)
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures

Infiltration Prevention and Diversion Barriers

If this work plan includes costs for infiltration prevention and/or diversion barriers, at a minimum this section should provide the following:

- A detailed scope of work for the barrier (e.g. thickness, material, specifications, justification that the barrier is protective of the contaminants on site, etc.)
- Justification that contamination is present to warrant this engineering control
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures

Underground Storage Tank Removal and/or Closure

If this work plan includes costs for underground storage tank (UST) removal and/or closure, at a minimum this section should provide the following:

- A detailed scope of work for each activity/sub-activity (e.g., investigation, GPR, UST removal, contaminated soil removal, waste characterization, backfill and compaction, verification sampling, reporting, etc.)
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures

Specialized Foundations

If this work plan includes costs for specialized foundations, at a minimum this section should provide the following:

- A detailed scope of work for each component of the specialized foundations
- A breakdown of costs for each component provided in Table 1
- A cost-benefit analysis by a licensed professional engineer (P.E.) that demonstrates that the additional incremental cost of the specialized foundation is less expensive than the trucking and disposal costs of the soil that would be excavated for a typical foundation
- A demonstration that only the additional incremental cost of the specialized foundation beyond the cost of the standard foundation is included
- Locations of activities provided on attached Figures
- *Note: If the local unit of government/developer requesting EGLE funding prefers the higher cost option, state funds can still be approved for the equivalent of the lowest cost option*

Dust Control

If this work plan includes costs for dust control (i.e., actions necessary to prevent or reduce the surface and air transport of dust during demolition and construction), at a minimum this section should provide the following:

- A detailed scope of work for each activity/sub-activity (e.g., 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, etc.)
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures

Industrial Cleaning

If this work plan includes costs for industrial cleaning (i.e., cleaning walls, floors, pits, or drains to allow new tenants to reuse an existing structure, install equipment, or complete interior renovations), at a minimum this section should provide the following:

- A detailed scope of work for each activity/sub-activity (e.g., wall cleaning, floor cleaning, pit cleaning, drain cleaning, etc.)
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures

Sheeting and Shoring Necessary for the Removal of Contaminated Materials at Projects Requiring a Permit Under Part 301, 303, or 325 of the Public Act 451, The Natural Resources and Environmental Protection Act, as amended (NREPA)

If this work plan includes costs for sheeting and shoring (i.e., bracing, sheeting, or shoring necessary prior to excavation of contaminated material to protect life, the land, or the integrity of the excavation) for the removal of contaminated materials at projects requiring a permit under Part 301, 303, or 325 of NREPA, at a minimum this section should provide the following:

- A detailed scope of work for each activity/sub-activity
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures

Disposal of Solid Waste

If this work plan includes costs for disposal of solid waste (e.g., used tires, old appliances and furniture, used car batteries, etc.), at a minimum this section should provide the following:

- A detailed scope of work for each activity/sub-activity associated with the disposal of solid waste (e.g., removal, transportation, disposal, etc.)
- Justification that the combined costs of activities including disposal of solid waste, lead, asbestos, or mold abatement, and demolition that is not related to contamination, removal and disposal of contaminated lake or river sediments are less than the cost of eligible environmental activities
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures

Removal and Disposal of Lake or River Sediments

If this work plan includes costs for removal and disposal of lake or river sediments, at a minimum this section should provide the following:

- A detailed scope of work for each activity/sub-activity associated with removal and disposal of lake or river sediments from a navigable waterway (e.g., dredging, testing, transportation, disposal, upland disposal or cover, provided that on-site disposal does not result in contaminated land, etc.)
- A breakdown of costs for each activity/sub-activity provided in Table 1
- Locations of activities provided on attached Figures
- Justification that the combined costs of activities including disposal of solid waste, lead, asbestos, or mold abatement, and demolition that is not related to contamination, removal and disposal of contaminated lake or river sediments are less than the cost of eligible environmental activities
- Justification that the one of the following scenario requirements is met:
 - Dredging is tied to an economic development project with a committed developer, and the upland parcel(s) is contaminated; or
 - The sediment is contaminated and would create or exacerbate contaminated land if deposited on the upland parcel(s)

Third-Party Environmental Oversight Professional

Example Language: Grant/Loan third-party environmental oversight language (e.g., Third-party environmental oversight is included in this work plan not to exceed the lesser of 5% of the total award amount spent or the amount included in Appendix A of the agreement, as amended.)

Grant and/or Loan Administration

Example Language: Grant/Loan administration language (e.g., Grant/Loan administration is included in this work plan not to exceed the lesser of 3% of the total award amount spent or the amount included in Appendix A of the agreement, as amended.)

Contingency

If contingency was included in the grant/loan award, please use something similar to this Grant/Loan contingency language (e.g., Contingency is included in this work plan not to exceed the lesser of 15% of the total of eligible activities or the amount included in Appendix A of the agreement, as amended. The contingency will only be used for unanticipated conditions that may be encountered during the

performance of eligible activities. Further, the contingency will not be utilized without first consulting (verbal or written) with EGLE before activities are conducted and subsequently followed up with a written request and approval by EGLE.)

Contingency under Act 381 is allowed up to 15% of the activity/sub-activity costs that have yet to occur.