

# **WORK PLAN OUTLINE INSTRUCTIONS**

October 2013

**ACT 381 WORK PLAN**

**TO CONDUCT  
ELIGIBLE DEQ RESPONSE  
AND/OR  
MSF NON-ENVIRONMENTAL  
ACTIVITIES**

**PROJECT NAME  
PROJECT ADDRESS  
[County, City, Township]  
Brownfield Redevelopment Authority**

**Date**

Prepared by:

# ACT 381 WORK PLAN OUTLINE

## TABLE OF CONTENTS

### 1.0 INTRODUCTION

#### 1.1 Eligible Property Information

- 1.1.1. Physical Location/Address  
-includes legal description(s) as shown on deed
- 1.1.2. Current Ownership
- 1.1.3. Proposed Future Ownership
- 1.1.4. Delinquent Taxes, Interest, and Penalties Due
- 1.1.5. Existing and Proposed Future Zoning for Each Eligible Property

#### 1.2 Historical Use of Each Eligible Property

#### 1.3 Current Use of Each Eligible Property

#### 1.4 Summary of Site Conditions and Known Environmental Contamination

#### 1.5 Summary of Functionally Obsolete and/or Blighted Conditions

#### 1.6 Summary of Proposed Redevelopment and Future Use for Each Eligible Property

#### 1.7 Information Required by Section 15(15) of the Statute

### 2.0 SCOPE OF WORK

#### 2.1 DEQ Eligible Activities

- 2.1.1. Baseline Environmental Assessment
- 2.1.2. Due Care
- 2.1.3. Additional Response Activities
- 2.1.4. Environmental Insurance
- 2.1.5. Interest
- 2.1.6. Develop/Prepare Brownfield Plan and Work Plan

#### 2.2 MSF Eligible Activities

- 2.2.1. Public Infrastructure Improvements
- 2.2.2. Demolition
- 2.2.3. Lead Abatement
- 2.2.4. Asbestos Abatement
- 2.2.5. Site Preparation
- 2.2.6. Interest
- 2.2.7. Assistance to a Land Bank Fast Track Authority
- 2.2.8. Relocation of Public Buildings or Operations
- 2.2.9. Develop/Prepare Brownfield Plan and Work Plan

#### 2.3. Local Only Eligible Activities

### 3.0 SCHEDULE AND COSTS

#### 3.1 Schedule of Activities

#### 3.2 Estimated Costs

- 3.2.1. Description of DEQ Eligible Activities Costs
- 3.2.2. Description of MSF Eligible Activities Costs



## LIST OF EXHIBITS

*Refer to the Outline Instructions to determine which Exhibits are required for your project.*

### FIGURES

Figure 1	Scaled Property Location Map
Figure 2	Eligible Property Map(s)
Figure 3	Proposed Sampling Location Map
Figure 4	Map of Known Extent of Vertical and Horizontal Contamination
Figure 5	Color Site Photographs
Figure 6	Public Infrastructure Improvements Map(s)
Figure 7	Redevelopment Project Rendering(s)
Figure 8	Engineering Site Plan(s) or Site Plan(s)

### TABLES

Table 1	Summary of Costs for Eligible Activities
Table 2	DEQ Tax Capture/Reimbursement Schedule (if applicable)
Table 3	MSF Tax Capture/Reimbursement Schedule (if applicable)

### ATTACHMENTS

Attachment A	Approved Brownfield Plan and Resolution(s) Approving
Attachment B	Development Agreement or Reimbursement Agreement
Attachment C	Declaration of Dangerous Building
Attachment D	Declaration of Blighted Condition and/or Level 3 or Level 4 (Master or Advanced) Assessor's Signed Affidavit for Functionally Obsolete

# OUTLINE INSTRUCTIONS

*An Act 381 work plan must be a **stand-alone** document that includes all necessary information to demonstrate property eligibility and activity eligibility. Following is the minimum information necessary for submission of an Act 381 work plan. Please include any other information, reports, maps, tables, etc. that you feel are pertinent for a complete review and consideration of your work plan.*

## 1.0 INTRODUCTION

### 1.1 Eligible Property Information

- 1.1.1 **Property Eligibility** – Indicate if the property is a facility, or historic resource, located in a qualified local governmental unit and functionally obsolete, and/or blighted, or tax reverted property owned or under the control of a land bank fast track authority. Indicate whether the eligible property includes adjacent or contiguous parcels. Properties adjacent or contiguous to the eligible property but located outside of the Brownfield plan’s eligible property boundary are not eligible properties. If there are more than 8-10 parcels involved, it is helpful to summarize them in table format with an address, parcel number, and how the individual parcel qualified as eligible.  
**Location** – Include street address, city or township, county, parcel number(s) for each eligible property, (including adjacent or contiguous properties that are part of the eligible property) and, parcel size or total acreage. Provide a property location map and an eligible property map as Figures 1 and 2 in the Exhibits portion of the work plan. Adjacent or contiguous parcels should be identified as such on the maps. The eligible property map provided should match that presented in the adopted Brownfield plan.
- 1.1.2 **Current Ownership** – Name, address, and contact person for all current owner(s). If property ownership has changed within the past six (6) months, provide the name of the previous owner.
- 1.1.3 **Proposed Future Ownership** – Name, address, and contact person for all known future owner(s).
- 1.1.4 **Delinquent Taxes, Interest, and Penalties** – Total of delinquent taxes including penalties and interest for each eligible property. If there are taxes owed, it is recommended that an explanation be provided as to why they are owed, and how the issue will be resolved.
- 1.1.5 **Existing and Proposed Future Zoning** – Identify existing and proposed future zoning for each eligible property. Indicate if the zoning will remain unchanged.

### 1.2 Historical Use of Each Eligible Property

Summarize the historical use of each eligible property dating back as far as information is available. Include the types of residential, public, commercial, and industrial uses and the corresponding dates for each use. Provide the name(s) of previous owners and operators. Provide information about the types of equipment, machinery, storage tanks, etc. that were operated on each property and known or possible hazardous substance use, as well as persons who may be liable for the contamination.

### 1.3 Current Use of Each Eligible Property

Summarize the type(s) of residential, public, commercial, and industrial uses that are currently operating on each eligible property. Indicate which uses will continue operating after redevelopment. Also, indicate if the property is vacant.

**1.4 Summary of Site Conditions and Known Environmental Contamination**

(Complete this section if the eligible property is qualifying as a facility). Provide what is known about environmental contamination for each eligible property. Summarize the results of previous environmental studies including Phase I and II environmental site assessments, baseline environmental assessments, remedial investigations, etc. Indicate if a BEA has been conducted/completed for the eligible property by any party associated with the redevelopment. Indicate what conditions make the property a facility including the types of contaminants and concentrations found above residential cleanup criteria and the associated laboratory analytical data that demonstrate the property is a facility. Include a site map showing the lateral and vertical extent of known contamination with soil boring and monitor well locations and concentrations identified. Note: Do not submit environmental reports with the work plan. The DEQ will request further documentation if needed.

\*Special Note Regarding Contaminated Properties (those that are facilities). This information is required whether or not school taxes will be used for response activities. The Michigan Strategic Fund (MSF) requires that the property be investigated to the extent necessary for a reasonable identification of eligible activities and cost necessary to address the contamination. A description of existing conditions and anticipated environmental activities must be submitted to the MSF. The MSF approval of non-environmental activities may be conditioned on certain requirements intended to protect the public health, safety, and welfare and the environment consistent with applicable state and/or federal laws.

**1.5 Summary of Functionally Obsolete, Blighted and/or Historic Conditions**

*(This information is required for work plans seeking MSF approval).* Describe why the property is blighted and/or functionally obsolete as defined in Sections 2(e) and 2(s), respectively, of Act 381. A property qualifying as functionally obsolete requires an affidavit, attached as an Exhibit, signed by a level 3 or level 4 assessor, which states in the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion. A property qualifying as blighted requires a detailed description of the property conditions and a formal declaration by the local unit of government designating the area blighted. If a property is qualifying as historic<sup>1</sup>, provide documentation that it is located within a local historic district or listed on the State or National Register of Historic Places.

**1.6 Summary of Proposed Redevelopment and Future Use for Each Eligible Property**

Provide a detailed summary of the proposed redevelopment project including the number, types, and square feet of the structures, for what purposes they will be used, the number of units (if residential condos/apartments), the number of new jobs created not including temporary construction jobs, the amount of private investment, and the

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<sup>1</sup> MCL 125.2090a

total cost of the project. Provide a rendering of the redevelopment as an Exhibit.

### **1.7 Information Required by Section 15(15) of the Statute**

Work plans submitted for MSF consideration require responses to the following questions:

- 1.7.1 How are the individual activities included in the work plan sufficient to complete the eligible activity?
- 1.7.2 How is each individual activity included in the work plan required to complete the eligible activity?
- 1.7.3 How were the costs for each individual activity determined to be reasonable?
- 1.7.4 What is the overall benefit to the public?
- 1.7.5 To what extent will vacant buildings be reused and redevelopment of blighted property occur?
- 1.7.6 How many and what type of jobs; e.g. fulltime, part-time, managerial, professional will be created by the project?
- 1.7.7 Is the eligible property in an area of high unemployment?
- 1.7.8 What is the level and extent of contamination alleviated by or in connection with the eligible activities?
- 1.7.9 What is the level (amount of private sector investment) of private sector contribution to the project?
- 1.7.10 If a greenfield site was considered, what is the cost gap between the site and a similar greenfield site? Alternatively, what extraordinary costs for this site are related to it being a Brownfield?
- 1.7.11 If the developer or projected occupant of the new development is moving from another location in this state, will the move create a Brownfield?
- 1.7.12 Provide a project pro forma, financial statements or other acceptable documentation, which demonstrates that the project is financially and economically sound.
- 1.7.13 Identify the amount of all other anticipated state or local incentives that directly or indirectly benefit this project.
- 1.7.14 Provide any additional information you want MSF to consider while reviewing this work plan.

## **2.0 SCOPE OF WORK**

***All proposed activities and costs are for work to be conducted and must be consistent with the approved Brownfield plan.***

### **2.1 DEQ Eligible Activities**

Proposed activities should be placed into one of the following categories. Provide as much detail as possible regarding each proposed activity and the reason the activity is necessary. For all proposed environmental sampling activities, include the types of samples to be collected (soil, groundwater, waste, sediments, surface water, etc.), method of sample collection (surface soil, hand auger, drill rig, geoprobe, temporary well, monitor well, etc.), number of samples, and analytes for each type of sample. A Proposed Sampling Location Map is required as an Exhibit.

**2.1.1 Baseline Environmental Assessment (BEA)** – activities may include:

- Environmental assessments (e.g., Phase I and Phase II).
- Sampling and analysis.
- Data interpretation and reporting.
- Development and installation of engineering controls or isolation zones.
- Disclosure of BEA.

**2.1.2 Due Care** – activities to meet Section 7a due care obligations may include:

- Investigation (sampling, analysis, interpretation, reporting) to define contamination.
- Assessment of intended use with regard to contamination and identification of due care issues.
- Development of a plan for response activities to meet due care obligations.
- Contaminant treatment or removal to prevent exposure or exacerbation.
- Barriers to prevent exposure, exacerbation, or third party impacts.

**2.1.3 Additional Response Activities** – Conducting of additional response activities is at the discretion of the Brownfield Redevelopment Authority (BRA) and may include the following activities:

- Evaluation including investigation and feasibility study.
- Interim response activity.
- Remedial action.
- Demolition that is a response activity (e.g., demolition is necessary to address the contamination; the structure has been condemned, formally declared dangerous, etc). Describe why demolition is necessary for environmental and/or public health, safety, or welfare reasons and if so, document that the local unit of government has formally declared the building a danger to the community as an attachment. Include the size, type, and number of structures. Include the deconstruction/demolition procedure and recycling/disposal practices. Bids should be obtained for all demolition activities.
- Lead abatement that is a response activity. Describe why it is necessary for environmental and/or public health, safety, or welfare reasons. Describe the type of lead abatement activities to be performed including procedures and disposal practices. This includes surveying for lead-containing materials and sampling.
- Asbestos abatement that is a response activity. Describe why it is necessary for environmental and/or public health, safety, or welfare reasons. Describe the type of asbestos abatement activities to be performed including surveying for asbestos-containing materials, sampling, and procedures and disposal practices.
- Response activities that are more protective of the public health, safety, and welfare and the environment than required for due care. Describe the

proposed activities and how they provide public health or environmental benefits and address the following:

- 1) The proposed new land use and the reliability of land use restrictions to prevent exposure to the contamination.
  - 2) The activities and costs minimally necessary to achieve due care compliance and the incremental cost of the proposed additional response activities that are more protective.
  - 3) The long-term obligations (deed restrictions, monitoring, operation and maintenance, etc.) associated with leaving contamination in place and the value of reducing or eliminating these obligations.
- Other actions necessary to protect the public health, safety, welfare, environment, or natural resources.
- 2.1.4 **Environmental Insurance** – The reasonable cost of liability insurance for environmental contamination and cleanup that is not otherwise required by state or federal law (e.g. storage tank insurance). Due to Michigan’s causation liability standard, describe why the insurance is needed, include the type of coverage that will be provided (types of risks), the term of the policy that will be purchased for the funding requested, and any other relevant information that will assist in determining if the is cost is reasonable.
- 2.1.5 **Interest**– DEQ approval of interest expense is not required by statute, therefore, the interest expense amount does not need to be included in the estimated costs. However, the interest rate must be provided and should conform to the MSF Brownfield interest guidance and policy. List the costs subject to payment or reimbursement to any person or entity seeking that payment or reimbursement. Provide the interest rate applied to those costs.
- 2.1.6 **Develop/Prepare Brownfield Plan and Work Plan** – The reasonable cost of developing and preparing the Brownfield plan and work plan. *Note: The DEQ and MSF allow an agency-combined total of up to \$20,000 for preparation of Brownfield Plans and/or Act 381 Work Plans.*

## 2.2 MSF Eligible Activities

Proposed activities should be placed into one of the following categories. Provide as much detail as possible for each proposed activity, including existing conditions which make the activity necessary. Also, note that communities that are not designated as a Qualified Local Governmental Unit (QLGU) are only allowed to include demolition and lead and asbestos abatement as an eligible activity. Separate from this document, additional detailed guidance will be established for eligible activities under Act 381 Work Plan requests. Please contact the MEDC or visit <http://www.michiganadvantage.org/Brownfield-Redevelopment/> for additional guidance and requirements. Add land bank language

- 2.2.1 **Infrastructure Improvements** – This MSF eligible activity is only available on eligible properties within a QLGU; eligible properties include those that are a facility, blighted or functionally obsolete. Describe why infrastructure improvements are necessary for the redevelopment project. Provide maps showing the location of the improvements relative to the project. As appropriate, identify on a per unit cost basis the improvements and describe the size and scale of the project in terms of linear feet basis, square footage or

other appropriate measures.

Infrastructure improvements shall be publicly owned and maintained, support the project, and also serve others/public, except in the case of urban stormwater management systems and parking decks, which may be located on private property. Infrastructure improvements can also extend into private property so long as there is a dedicated easement or the area of improvements is deeded to the governing body.

- 2.2.2 **Demolition that is Not a Response Activity** – This MSF eligible activity is available on eligible properties statewide. Potential MSF eligible demolition activities include Building Demolition and Site Demolition that is not a response activity, including interior and partial/whole building. Describe the size, type, location, and number of buildings, structures or improvements to be demolished, and if applicable recycling/disposal practices.
- 2.2.3 **Lead Abatement** – This MSF eligible activity is available on eligible properties statewide. For lead abatement, include the location and number of buildings, structures, or improvements to be abated. Include the types of activities to be performed and the procedure and disposal practices to be used. Assessing/surveying for lead-containing materials and sampling/reporting are allowable activities to successfully complete the eligible lead abatement activities.
- 2.2.4 **Asbestos Abatement** – This MSF eligible activity is available on eligible properties statewide. For asbestos abatement, include the location, and number of buildings, structures, or improvements to be abated. Include the types of activities to be performed and the procedure and disposal practices to be used. Assessing/surveying for asbestos-containing materials and sampling/reporting are allowable activities to successfully complete the eligible asbestos abatement activities.
- 2.2.5 **Site Preparation that is Not a Response Activity** – This MSF Eligible Activity is only available on eligible properties in a QLGU. Eligible properties include those that are a facility, blighted, or functionally obsolete. Under Act 381, as amended, the Site Preparation activity is defined as: “site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101”. Note that if soils are to be removed from the site that exhibit contamination above residential criteria the costs may be covered by DEQ.

Provide maps showing the location of the site preparation activities. As appropriate, include enough detail for the MEDC to evaluate each of the proposed site preparation activities, such as the size, type, location, or number and describe on a linear feet basis, square footage or other appropriate measures. MSF may consider other proposed site preparation activities necessary for the successful redevelopment of the eligible property that demonstrate a specific and unique need due to the site specific Brownfield conditions.

- 2.2.6 **Interest** – If the costs to conduct the eligible activities will be financed and use of school tax capture is being sought for reimbursement of interest expense, include these costs as a separate line item in the estimated costs. The interest

rate must be provided and should conform to the MEDC's MSF Brownfield interest guidance and policy.

2.2.7 **Assistance to a Land Bank Fast Track Authority** – Identify activities necessary to clear or quiet title to, or sell or otherwise convey, property owned by a land bank fast track authority or the acquisition of property by the land bank if the acquisition of the property is for economic development purposes (including reasonable costs associated with the acquisition).

2.2.8 **Relocation of Public Buildings or Operations** – Public buildings or operations can be moved for economic development purposes. Prior approval from MSF is required. The QLGU must describe how the relocation will benefit economic development and provide detailed plans and maps showing the current usage and proposed changes for the eligible properties.

2.2.9 **Develop/Prepare Brownfield Plan and Work Plan** – The reasonable cost of developing and preparing the Brownfield plan and work plan. *Note: The DEQ and MSF allow an agency-combined total of up to \$20,000 for preparation of Brownfield Plans and/or Act 381 Work Plans.*

**2.3 Local Only Eligible Activities**

Outline any costs related to eligible activities that will be reimbursed with local-only taxes.

**3.0 SCHEDULE AND COSTS**

**3.1 Schedule of Activities**

Provide an anticipated schedule for completing the proposed eligible activities; including the month and year the activities are to be completed. For BEA and due care activities, sixty (60) days for DEQ work plan review should be reflected in the schedule. For additional response activities, allow six (6) months for DEQ work plan review. Sixty-five (65) days should be incorporated into the schedule for the MSF work plan review.

**3.2 Estimated Costs**

Costs should be itemized within each type of proposed eligible activity (e.g., BEA, due care, infrastructure improvements, demolition, etc.). Estimates may include line items for Brownfield plan preparation, and work plan preparation. *See Table 1 - Summary of Costs for Eligible Activities.*

**Interest Expense** – Use of captured school taxes for reimbursement of interest costs associated with financing of eligible activities differs by agency.

**EXHIBITS** – Exhibits are required for all projects unless indicated otherwise.

**NOTE: Please utilize shading/hatch marks/callouts/key codes or other indicators to differentiate items on submitted drawings/maps. NO color.**

**Figures**

Figure 1 Scaled Property Location Map

Figure 2 Eligibility Property Map(s) – that clearly depict the eligible property (by parcel number and address) and its parcel boundaries including dimensions for the eligible property,

project boundaries, and existing building locations. The preference is to have this map as an overlay (layers) to an ALTA/ACSM Land Title Survey or as an overlay to a Metes and Bounds Survey.

- Figure 3 Proposed Sampling Location Map
- Figure 4 Map of Known Extent of Vertical and Horizontal Contamination
- Figure 5 Color Site Photographs – include "before" photographs depicting the current conditions of the eligible property. Digital photographs may be requested by the reviewing agency. Photographs of the property after redevelopment may also be requested.
- Figure 6 Public Infrastructure Improvements Map(s)
- Figure 7 Redevelopment Project Renderings(s)
- Figure 8 Engineering Site Plan(s) – or at a minimum a site plan(s) illustrating the proposed future use of buildings and site improvements.

#### **Tables**

- Table 1 Summary of Costs for Eligible Activities
- Table 2 DEQ Tax Capture/Reimbursement Schedule (if applicable) – for work plans containing DEQ eligible activities you are required to clearly identify the following information:
- List in detail all of the local and state millage rates separately.
  - Show the percentage of the project that is estimated to be homestead versus non-homestead property in relationship to the total investment.
  - Identify the methodology for calculating the local-only tax capture portion (local-only eligible activities and administrative/operating costs of the BRA) to ensure the local-only portion has not been included in the shared state-to-local tax capture calculations.
  - Any other information requested at the discretion of the DEQ.
- Table 3 MSF Tax Capture/Reimbursement Schedule (if applicable) – for work plans containing MSF eligible activities you are required to clearly identify the following information:
- List in detail all of the local and state millage rates separately.
  - Show the percentage of the project that is estimated to be homestead versus non-homestead property in relationship to the total investment.
  - Identify the methodology for calculating the local-only tax capture portion (local-only eligible activities and administrative/operating costs of the BRA) to ensure the local-only portion has not been included in the shared state-to-local tax capture calculations.
  - Any other information requested at the discretion of the MEDC for approval by the MSF

*Please note that after the MSF Board approves the Work Plan if there is any change in millage that increases the captured percentage of school operating taxes by more than*

*five percentage points, the MSF Board must approve the change prior to the collection of any school operating taxes.*

**Attachments**

- Attachment A Approved Brownfield Plan and Resolution(s) – As approved by the governing body with a copy of the signed resolution(s) approving the attached plan.
  
- Attachment B Development Reimbursement Agreement – An executed copy of the agreement between the municipality and property owner or developer - this is required for all MSF projects. The agreement must include: a) terms and conditions for the acquisition of property associated with the project; b) development objectives; c) performance and financial responsibilities of the local community; d) performance and financial responsibilities of the developer and e) defaults and remedies. In addition, the agreement shall include the identification of all ownership interests; monetary considerations, fees, revenue and cost sharing, charges, other financial arrangements; and other consideration between the parties.
  
- Attachment C Declaration of Dangerous Building – documentation of local unit of government’s declaration of a dangerous building (required for DEQ demolition projects).
  
- Attachment D Declaration of Blighted Condition and/or Level 3 or Level 4 Assessor’s Signed Affidavit for Functionally Obsolete – documentation of local unit of government’s declaration of blighted condition and/or Level 3 or Level 4 Assessor’s signed affidavit for functionally obsolete (required for MSF projects).

**Table 1**  
**Summary of Costs for Eligible Activities**

<u><b>MSF Eligible Activities</b></u>	<u><b>MSF Request</b></u>
Demolition	\$ _____
Lead and/or Asbestos Abatement	\$ _____
Infrastructure Improvements	\$ _____
Site Preparation	\$ _____
<i>Sub-Total</i>	\$ _____
Contingency (indicate %)*	\$ _____
<i>Sub-Total</i>	\$ _____
Interest**	\$ _____
Brownfield/Work Plan Preparation***	\$ _____
<b>MSF TOTAL</b>	\$ _____
<u><b>DEQ Eligible Activities</b></u>	<u><b>DEQ Request</b></u>
Baseline Environmental Assessment	\$ _____
Due Care Activities	\$ _____
Additional Response Activities	\$ _____
Environmental Insurance	\$ _____
<i>Sub-Total</i>	\$ _____
Contingency (indicate %)*	\$ _____
<i>Sub-Total</i>	\$ _____
Brownfield/Work Plan Preparation***	\$ _____
<b>DEQ TOTAL</b>	\$ _____
<b>GRAND TOTAL OF ELIGIBLE ACTIVITES (MSF + DEQ)</b>	\$ _____

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

\*\*Upon request, the MSF Board will consider interest in accordance with the current MSF Brownfield Program Guidelines.

\*\*\*The DEQ and MSF allow an agency-combined total of up to \$20,000 for preparation of Brownfield Plans and/or Act 381 Work Plans. This should be appropriately split between the agencies.