

Michigan Strategic Fund

Brownfield Non-Environmental Eligible Activities Guidance

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The Michigan Strategic Fund (MSF) recognizes the importance of supporting the work necessary to ready Brownfield sites for successful redevelopment. As an incentive to stimulate economic development, the Michigan Economic Development Corporation (MEDC) Brownfield Redevelopment Program has established this guidance to review projects and assess the critical components of the eligible MSF non-environmental activities (hereinafter referred to as “MSF eligible activities”) under the [Brownfield Redevelopment Financing Act](#) of 1996, as amended. This guidance is a supplemental MEDC document to other Act 381 Guidance prepared jointly by the MEDC and the Michigan Department of Environmental Quality (DEQ).

This document is intended to be used as a “road map” to guide the reader through the technical approaches and the policy used to evaluate projects proposed to the MSF. This guidance will also facilitate consistent, accurate, efficient and timely completion of a project’s approval process where the capture of state school taxes 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 based upon site-specific and project conditions. This guidance document shall replace and supersede any previously established guidance document. Upon a detailed evaluation of any proposed MSF eligible activity, the MSF will make a determination of eligibility for state school tax capture based upon site specific Brownfield related conditions, other relevant factors and the information below.

Demolition, that is not an environmental response activity (i.e. related to contamination cleanup), and Lead and Asbestos Abatement are eligible activities for all eligible properties statewide¹. However, Infrastructure Improvements and Site Preparation eligible activities are only available on eligible properties located within a Qualified Local Governmental Unit ([QLGU](#)).

Demolition Review Criteria

(Available Statewide)

Potential MSF eligible demolition activities include Building Demolition and Site Demolition that are not environmental response activities. Include the size, type, location, and number of buildings, structures or improvements to be demolished and, if applicable, recycling/disposal practices. These requirements apply to both Building Demolition and Site Demolition as follows:

Building Demolition (*interior or partial/whole building*) – Activities include but are not necessarily limited to: pre-demolition audit or survey; deconstruction or select demolition of building elements (products or materials) to be reused or recycled; demolition of of a building; proper disposal of non-reusable or non-recyclable building elements; recycling of demolition arisings (such as concrete and brick) to produce recycled aggregates if conducted on-site for re-use; foundation and basement removals; dewatering during foundation and basement removals; sheeting/shoring to protect adjacent buildings, structures or improvements during foundation and basement removals; fill; compaction, and; rough grading to balance the site where the former building was located.

Site Demolition - Activities include but are not necessarily limited to: removal of abandoned utilities; underground storage tanks (unless the tanks are regulated by LARA); parking lots; roads; curbs and gutters; rail spurs; sidewalks; bike paths; other similar or related structure or improvement; fill, compaction, and rough grading to balance the site where the former structures or improvements were located at the discretion of the MEDC and approval by the MSF.

¹ See Act 381 Guidance for eligibility definitions.

MSF may consider professional fees related to geotechnical, architectural, engineering, design, legal or other professional fees, as long as the soft costs are directly related to building and/or site demolition activities.

Lead and Asbestos Abatement Review Criteria

(Available Statewide)

MSF eligible lead and/or asbestos abatement activities may be allowed during building demolition activities or as a requirement to renovate an existing structure. For lead and/or asbestos abatement, include the location, number of buildings, structures or improvements to be abated, the procedure, and practices. To successfully complete the MSF eligible lead and/or asbestos abatement activities, the assessing, surveying, sampling, reporting and abatement work are considered allowable activities.

MSF may consider professional fees related to geotechnical, architectural, engineering, design, legal or other professional fees, as long as the soft costs are directly related to lead and/or asbestos abatement.

Infrastructure Improvements Review Criteria

(Only available to [Qualified Local Governmental Units](#))

Describe why infrastructure improvements are necessary for the redevelopment project. Provide legible maps showing the location of the infrastructure improvements relative to the project, both within the public right-of-way, or on private property, as applicable. As appropriate, identify on a per unit cost basis the improvements and describe the size and scale of the project in terms of the linear feet, square footage or other appropriate measures.

Upon a detailed evaluation of any proposed infrastructure improvements, the MSF will make a determination of eligibility for state school tax capture provided the infrastructure improvements are publicly owned and maintained, support the project and also serve others/public. An exception to the requirement to be in public right-of-way and publicly maintained and operated is in the case of underground and/or vertical parking and urban storm water management systems, which may be located on private or public land that meet MSF policy as outlined below. Infrastructure improvements can also extend into private property provided there is a dedicated easement or the area of infrastructure improvements is deeded to the governing body.

Potential eligible infrastructure improvements include but are not necessarily limited to:

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|----------------|---------------------|----------------------|---------------------|
| - Roads | - Water mains | - Park/Seating Areas | - Urban storm water |
| - Sidewalks | - Curbs and Gutters | - Public Rail Lines | management |
| - Bike Paths | - Sanitary sewer | - Parking Decks and | systems (on private |
| - Bridges | mains | Underground | and/or public land) |
| - Lighting | - Landscaping | parking (on private | |
| - Signage | - Marinas | and/or public land) | |
| - Storm Sewers | - Boardwalks | | |

Similar improvements may be considered, at the discretion of the MEDC and with approval by the MSF. Infrastructure improvements do not include: sanitary sewer leads or taps; water leads or taps; electric service; or project communication lines (including telephone networks, fiber optics, cable lines, etc.) into the eligible property.

Underground and Multilevel Parking Structures

Soil removal and transportation costs will be permitted for Underground and Multi-level Parking, as long as the soils are not subject to environmental response activities under DEQ authority. Parking decks that integrate building foundations may include the cost for that portion of the foundations that exceed the estimated cost for a typical slab foundation.

Parking structures that contain shared elements (e.g. elevators) within a larger building may request the costs that are specific to the parking structure only.

Urban Storm Water Management System: Traditional

This activity seeks to capture stormwater and divert or slow its discharge to the municipal sewer system during a storm event. This activity may be considered in situations where an increase in 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, in the opinion of a licensed Professional Engineer (P.E.), is provided. This activity does not include surface retention ponds in non-urban areas.

Urban Storm Water Management System: Low Impact Design (LID)

This activity covers 100% of the costs that manage storm water by mimicking the pre-settlement hydrologic cycle of a site. Storm water runoff is detained and infiltrated, evaporated, or used close to its source. The use of these LID stormwater management practices may be allowed when appropriate design information and support, in the opinion of a licensed Professional Engineer, is provided. The activity does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration practices, such as swales or roadside channels designed for conveyance and pollutant removal only.

Infiltration activities may include installing a device or practice such as a dry well, infiltration trench or berm, subsurface infiltration bed, bio retention (rain garden) area, level spreader, or permeable pavement with an associated system to retain the water onsite or designed specifically to encourage infiltration, as long as due care is undertaken to prevent the spread of contamination, if present. Stormwater reuse may include purification equipment for and 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 to return water to the atmosphere either through evaporation or by plants may also be considered. Activities include vegetated filter strips, roofs and swales designed specifically for mitigation of storm water. Refer to the "Low Impact Development Manual for Michigan", SEMCOG, 2008².

Infrastructure Improvement Soft Costs

MSF may consider professional fees related to geotechnical, architectural, engineering, design, legal or other professional fees, as long as the soft costs are directly related to private investment for infrastructure improvements. Soft costs generated by municipal employees related to infrastructure improvement are not considered eligible costs.

Site Preparation Review Criteria

(Only available to [Qualified Local Governmental Units](#))

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. Potentially eligible site preparation activities include:

² <http://www.semco.org/lowimpactdevelopment.aspx>

Site Preparation Activity	Guidance
Staking related to MSF eligible activities	Prior to the commencement of site work, construction staking may be allowed for the completion of such items as: Clearing and Grubbing; Land Balancing; Grading; Excavation tasks; Cut and Fill operations; Geotechnical Engineering; Erosion Controls for the location, alignment and elevation of Foundations, Structures, Underground Parking, Multilevel Parking Structures, Urban Storm Water Management, Retaining Walls, Temporary Sheet piling/Shoring; or during the Relocation of Existing Utilities.
Geotechnical Engineering	A method in which to obtain and determine soil type and/or stability. If Brownfield site conditions warrant, as determined by a licensed Professional Engineer(P.E.), geotechnical engineering may be allowed and may include investigating existing subsurface conditions and materials; determining their physical/mechanical and chemical properties that are relevant to the project, assessing risks posed by site conditions; designing earthworks and structure foundations; and monitoring site conditions, earthwork and foundation construction. Sometimes, geophysical methods may be used to obtain data about sites. Subsurface exploration usually involves soil sampling and laboratory tests of the soil samples retrieved.
Clearing and Grubbing	For some projects, the removal of organic matter including vegetative cover and topsoil within the limits of the proposed work and removal of the material to a depth which is sufficient to permit the construction of the structure, utility or road in accordance with the plans may be allowed. Grubbing means to disturb the soil by removing the vegetative cover including its root mass. Vegetative Cover means grasses, shrubs, trees, and other vegetation which holds and stabilizes soil. This task shall include the proper recycling, reuse and/or disposal of the cleared and grubbed organic matter including vegetative cover and topsoil.
Temporary Construction Access and/or Roads	Temporary construction access and/or roads may be allowed and may include clearing the work area of all vegetation (<i>see Clearing and Grubbing</i>), roughing in the road by cutting out all unsuitable soils, grading, subgrade preparation, placement of the fill material deposited and compacted for the completion of the roadbed.
Temporary Facility	A structure or use permitted by the local building codes to exist during periods of construction, development, land balancing or soil extraction, or for special events during site preparation activities may be allowed.
Temporary Traffic Control	This task may be allowed and may include those items necessary to control the flow of traffic as required and approved by governing authorities. Items required may include road closure, signage, barricades, lights, guards or flaggers.
Temporary Erosion Control	Temporary construction site erosion & sediment control practices intended to minimize the amount of soil and other material carried from the site by stormwater runoff where the construction activities do not include the construction of a building. These can include structural measures, non-structural measures, vegetative planting or management practices. Specifically, these temporary measures allowed may include the installation of silt fence, utilizing manhole treatment devices, the construction of silt traps, the mulching and temporary planting of areas exposed by grading, the construction of diversions, channel linings, grade stabilization structures and bank protection structures.

Temporary Site Control (i.e. security, fencing, lighting)	<p>In certain instances, it may be necessary to secure the project site to protect human health or the project investment. Only temporary site control measures may be allowed and may include furnishing and installing fencing, posts, gates, locking devices, guardrails, signage, or lighting.</p>
Excavation for Unstable Material (i.e. Urban or Historic Fill)	<p>The removal of the unstable material may be allowed when a site is found to consist of unstable material that will, in the opinion of a licensed Professional Engineer(P.E.) and with appropriate testing/data to support said opinion, not provide adequate structural support.</p> <p>Specifically, this task is for the purposes of removing Urban or Historic Fill and as a part of Foundation Work to Address Special Soil Concerns. Urban or Historic Fill material means non-indigenous material, deposited or disposed of which is a deterrent/disincentive to redevelopment of a site, and may include: existing basements, below grade structures, foundations (if not part of the MSF eligible activity “Demolition”); construction debris; dredge spoils; and/or demolition debris. Urban or Historic Fill material does not include any material which could be included in an Act 381 Work Plan as a DEQ eligible activity. In addition, Urban or Historic Fill material does not include a municipal solid waste disposal site.</p>
Foundation Work to Address Special Soil Concerns	<p>Based upon the load characteristics of the structure and the properties of the soils from the Brownfield conditions at the eligible property, foundation systems that are designed in the safest and most economical manner to allow for the construction of the structure may be allowed. This foundation work to address special soil concerns shall be validated by a licensed Professional Engineer (P.E.) and shall be supported with appropriate testing/data to evidence said opinion.</p> <p>Reimbursement with school taxes will be allowed only for the <u>incremental increase</u> in costs to address special soil concerns. In order to be considered for this activity, <u>document the cost gap</u> by providing the cost of constructing the foundation on a similar nearby Greenfield site containing indigenous soil material and the selected Brownfield site.</p>
Fill	<p>Where: (1) the removal of the unstable material has occurred as outlined above (<i>see Excavation for Unstable Material</i>), (2) an open excavation or void below grade has been created to remove the foundation or basement of a building as a part of the MSF eligible activity “Demolition”, or (3) any below grade void created as a result of any Geotechnical Engineering task as outlined above; the addition or replacement of soils (or other approved material) shall be allowed. This includes placement and the compaction of fill materials, and shall be performed by any reasonable method approved by a licensed Professional Engineer (P.E.) to achieve the required soil strength (density).</p>
Dewatering Related to MSF Eligible Activities	<p>A method or operation in which water is removed due to a high water table level only during Excavation for Unstable Material, Excavation to Support Underground Parking, Foundation Work to Address Special Soil Concerns, Fill, or Urban Storm Water Management tasks as outlined above.</p>
Land Balancing	<p>The process of filling a lower area with soil or other acceptable material from another on-site location that is higher in accordance with an approved site plan.</p>
Grading	<p>Changing the natural cover or topography of the land, including the movement or placement of soil from excavation, construction or land balancing, and cut and fill activities. Includes reasonable Mass Grading of the entire project site.</p>

Relocation of Active Utilities	Due to an eligible property's previously developed condition, private or public utilities located within the legally established parcel boundaries of an eligible property 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. The relocation of existing utilities may include overhead utilities; burial of overhead utilities (including electrical and phone lines); excavating for the utilities removal; excavating and the replacement of that utility; backfill material for the void created from the original utilities' removal; backfill material around the relocated utility; placement of the backfill material, and/or the compaction of the backfill material as outlined below (See <i>Compaction & Sub-base Preparation</i>).
Compaction & Sub-base Preparation related to MSF Eligible Activities	This task is allowed upon demonstration that this work is required on-site as a result of Excavation for Unstable Material, Foundation Work to Address Special Soil Concerns, or Relocation of Existing Utilities as outlined above. Sub-base preparation and compaction of approved materials shall be performed by any reasonable method approved by a licensed Professional Engineer(P.E.) to achieve the required soil strength (density) as is desired under roads, utilities or structures.
Cut & Fill Operations	Cut and fill operations may be allowed where specific site conditions warrant the use of this task as determined by a licensed Professional Engineer (P.E.).
Retaining Walls in Downtown Areas	In downtown areas where an increase in urban density is desired, structures that hold back the earth, stabilize soil from down-slope movement or erosion and provide support for vertical or near-vertical grade changes may be considered. The use of retaining walls may be allowed when it is demonstrated that their use will substantially reduce the amount of grading due to site-specific conditions as determined by a licensed Professional Engineer (P.E.).
Temporary Sheeting/Shoring	The temporary measure of bracing, sheeting or shoring which is necessary to address special soil concerns during construction of open cut trenches for utility work or foundation work as required by any governing laws or ordinances and as may be necessary to protect life, property or the work. During demolition activities, Temporary Sheeting/Shoring may be allowed to protect adjacent buildings, roads or utilities.
Soft Costs	Soft costs must be <i>directly</i> associated with site preparation activities (including engineering and design), legal and professional fees and costs.
Specific and Unique Activities	MSF may consider site preparation activities that demonstrate a specific and unique need due to the site-specific Brownfield conditions necessary for the successful redevelopment of the eligible property.

In addition to the previous eligible activities, MSF provides guidance on activities that are generally **not eligible** including:

Site Preparation Tasks Not Allowable	Guidance
Topsoil and Seeding	Not allowable unless as a Temporary Erosion Control, or an Infrastructure Improvement if located within a public right-of-way.
Landscaping	May be allowed as an Infrastructure Improvement if located within a public right-of-way.

Underground Sprinkling System (irrigation)	May be allowed as an Infrastructure Improvement if located within a public right-of-way, or located on private land if it is part of a Low Impact Design storm water management system exclusively utilizing collected water.
Site Lighting	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 located within an underground or vertical parking ramp.
Engineered Fill	Not allowable unless a part of Fill as outlined above.
Backfill Around Foundations and Private/Site Utilities	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 of the Brownfield conditions present at the site.