



Washtenaw County Brownfield Redevelopment Program Guide

Table of Contents

Section 1: Overview of the Washtenaw County Brownfield Redevelopment Program	1
Section 2: Brownfield Redevelopment Process and Procedures	2
Section 3: Associated Costs	7
Section 4: Overview of Brownfields Funding Opportunities	9
Section 5: Summary of Public Act 381	14
Section 6: Local Site Remediation Revolving Fund Q&A	18
Section 7: Glossary of Terms	21

Updated 9/4/2009

SECTION 1: OVERVIEW OF THE WASHTENAW COUNTY BROWNFIELD REDEVELOPMENT PROGRAM

The Brownfield Redevelopment Financing Act, Public Act 381 of 1996, as amended (PA 381) is the legislation that enables Brownfield Redevelopment in the State of Michigan. Public Act 381 and the Michigan Business Tax Act, Public Act 36 of 2007, as amended provide multiple tools to encourage redevelopment, including tax increment financing, revolving loan funds, and Michigan Business Tax (MBT) credits. Additionally at times, there are State and Federal grants and loans to assist with brownfield redevelopment.

Under PA 381 a municipality may create a Brownfield Redevelopment Authority to develop and implement brownfield projects. A local Brownfield Redevelopment Authority (BRA) must be made up of not less than 5 nor more than 9 persons appointed by the chief executive officer of the municipality subject to the approval of the governing body. The Washtenaw County Board of Commissioners (BOC) established a countywide BRA on May 19, 1999.

The **Washtenaw County Brownfield Redevelopment Authority (WCBRA)** Bylaws were adopted by the Washtenaw County Brownfield Redevelopment Authority Board on October 22, 1999 and approved, as adopted, by the Washtenaw County Board of Commissioners on February 2, 2000 per Resolution 00-0035.

Under the Bylaws the WCBRA shall consist of one representative, unless otherwise noted, from each of the following:

- Board of Commissioners
- County Administration Designee
- County Municipality
- Countywide Development Organization
- Development Company
- Nonprofit Environmental Group
- Nonprofit Community Group
- Public/Community At-Large – Two (2) representatives

The purpose of the WCBRA is to facilitate the redevelopment of previously developed sites, consistent with the community's commitment to sustainability and its vision for the future. The WCBRA can provide a mechanism for redevelopment and revitalization of underutilized and/or contaminated sites, without which re-development is complicated or would not occur. Redeveloping brownfields helps to ease urban sprawl, promotes sustainability, encourages infill development and creates economic and job growth.

The WCBRA is a County-wide authority with 23 Municipal Members. The WCBRA works in collaboration with each local unit of government throughout the brownfield process. Each Municipal Member is a partner in promoting revitalization and redevelopment.

The role of the **Washtenaw County Brownfield Program Staff** (Staff) is to assist with the brownfield process by serving as a liaison and facilitator to the various entities involved with the redevelopment of a brownfield site. Staff will help guide a developer through the brownfield process, utilizing this Guide, the Brownfield Redevelopment Project Guidance Packet and Brownfield Redevelopment Process & Guidance Packet Outline.

The following steps detail the process for brownfield redevelopment in Washtenaw County in order to utilize available incentives.

A. Due Diligence Investigation and Preparation for a Brownfield Redevelopment Project

In order to utilize the incentives available for brownfield redevelopment a site must first be determined an eligible property. An eligible property is defined as a “facility, functionally obsolete or blighted,” as defined by PA 381 and the Natural Resources and Environmental Protection Act (NREPA), Public Act 451 of 1994, as amended, if the property “. . . was used or is currently used for commercial, industrial, public or residential purposes, including personal property located on the property . . .” The property does not officially become eligible until a brownfield plan has been approved and more specific eligibility criteria is described in Section 5.

The following describes some general due diligence measures to be followed before the purchase of a property to determine eligibility, environmental responsibilities (if applicable) and preparation for brownfield related activities. The property must be eligible in order to submit a Project Concept Application (Application) to the WCBRA.

1. Assessment Work

Environmental Site Assessments (ESAs) are necessary for a developer to determine if a property has contamination that qualifies for designation as a “facility,” as defined by the NREPA (brownfield site). Staff can be involved from the beginning of this process or the developer can meet with staff once the site has been classified as a “facility” to discuss the next steps.

- a. **Phase I ESA** – Documents the historical uses of the site, and the visual condition of the site to determine if any Recognized Environmental Concerns (RECs) exist. If there is reason to suspect contamination, a Phase II ESA is ordinarily completed.
- b. **Phase II ESA** – The second stage of assessments, which is typically done if the Phase I identified any RECs. These assessments determine the location and levels of contamination through on-site soil sampling, and analysis.
- c. **Baseline Environmental Assessment (BEA)** - A BEA is a report that combines the Phase I and Phase II ESA reports into one document, which is then submitted to the State in order to set the “baseline” environmental issues for the site.

The new owner will need to complete a BEA to remove any liability for the contamination currently on the site and to provide for the ability to apply for incentives. A BEA must be conducted prior to or within 45 days after becoming the owner or operator. Conducting means field work and sample analysis must be completed, conclusions drawn, and the basis of the BEA report written. The BEA must be completed within 60 days of becoming the owner or operator. The extra 15 days is allowed to finalize the report. The BEA must be submitted to the DEQ within 6 months of the date of completion for a petition and 8 months from becoming the owner or operator for a disclosure.

2. Determine Eligible Activities and Proposed Funding

Certain environmental and non-environmental activities are eligible for incentives under PA 381. A qualified environmental consultant will utilize the information obtained from the assessment work to determine costs of environmental “due care” obligations (please refer to Section 7: Glossary of Terms for more information about “due care”). Additionally certain non-environmental activities are eligible for reimbursement under PA 381. Please refer to Section 4 and 5 for specific details about eligible activities.

There are various incentives available to assist with the redevelopment of contaminated and underutilized properties at the local, state and federal level. Eligible activity costs can be funded and/or reimbursed with grants and loans, tax increment financing and tax credits. Please refer to Section 4 for more detailed information about funding sources. Please identify the sources of funding prior to submitting an Application to the WCBRA

Eligible activities and cost estimates must be identified before submitting an Application to the WCBRA.

B. Brownfield Redevelopment Guidance Packet and Process

The WCBRA has developed the Brownfield Redevelopment Guidance Packet to outline the brownfield redevelopment process, identify the documents/templates required for review and submittal, and articulate the information required by the WCBRA. The one page Brownfield Redevelopment Process & Guidance Packet Outline, which summarizes the process and required elements, is available at <http://brownfields.ewashtenaw.org> or by contacting Staff.

1. Project Concept Application

The Project Concept Application (Application) is the first **process** step for all brownfield redevelopment projects coming through the WCBRA. The Project Application is part of WCBRA commitment to partner with each **Municipal Member** throughout the brownfield redevelopment process. The Application identifies the eligible property, eligible activities, funding sources, scope of the redevelopment project and more. An Application and Eligible Activity Table will be provided to the applicant from Staff.

The Application must be reviewed by Staff and the local municipality. In order to move forward to brownfield plan development, the Municipal Member in which the project is located must approve the Application. Approval of the Application by the local municipality is **NOT approval of the brownfield project/plan** and the requested incentives. Approval gives Staff permission to assist the applicant in creating a Brownfield Plan.

If a local municipality initially approves a project application, it is not obligated to approve the brownfield plan.

For projects outside the City of Ann Arbor, the Project Concept Application Process follows:

- 1) The Application and Eligible Activity Table are provided by Staff.
- 2) The developer submits the completed Application to Staff.
- 3) Staff reviews the application and works with the developer if revisions are necessary.
- 4) Staff presents the completed application to the Local Unit of Government (LUG) in which the project is located and requests approval to move forward with the brownfield process and the development of the Brownfield Plan.
- 5) Once the LUG has given approval to move forward with the brownfield process and the development of a brownfield plan, the developer is assessed the application processing fee (see Section 3: Associated Costs).
- 6) Upon approval of the Project Concept Application, the BRA and/or staff will provide a timeline for each project in consultation with the affected member municipality and the developer(s).

For projects located within the City of Ann Arbor the Project Concept Application Process follows:

[The City of Ann Arbor is in development of a process]

2. Brownfield Plan

Once the Project Concept Application is approved, and if the developer is seeking Brownfield incentives (TIF and/or MBT credit) to help fill the financial gap created by the additional costs associated with redeveloping a brownfield site, the developer will have to create a brownfield plan. The brownfield plan must include all the information included in the **Brownfield Plan Elements** document. Please obtain this document from Staff or at <http://brownfields.ewashtenaw.org>.

Staff will review the brownfield plan and work with the developer if revisions are necessary. Staff will also review costs and will need cost verification/justification.

For Projects outside the City of Ann Arbor the Brownfield Plan Approval Process follows:

- 1) The WCBRA will create a project-specific Brownfield Plan Subcommittee to review and consider the brownfield plan for approval. The subcommittee will then pass its recommendation for approval or revision of the brownfield plan to the LUG and WCBRA for their consideration.
 - a. It is the intention of the WCBRA that all Subcommittee meetings be conducted as open meetings. However, at times, subcommittees may have reason to conduct closed meetings due to matters of confidentiality.
 - b. The Subcommittee will use the Draft Brownfield Plan Evaluation Guidelines as the basis for the review. Once the review is completed, the subcommittee will present its recommendations at the next BRA Board meeting.
 - c. The Subcommittee will consist of three WCBRA Board members and a representative from the LUG in which the eligible property is located.
- 2) After a recommendation to approve the brownfield plan is made by the subcommittee, **the LUG, in which the project is located**, reviews, considers and approves the brownfield plan through a process developed at the discretion of the LUG. Note: Some LUGs require that a public hearing be held by their governing body in addition to Washtenaw County. If that is required, the LUG coordinates this process, and the Staff provides available resources and/or templates.
- 3) After approval by the LUG, the WCBRA reviews and considers the brownfield plan for approval.
- 4) A **public hearing** will be scheduled by the governing jurisdiction (Washtenaw County Board of Commissioners; BOC).
 - a. Two public notices, satisfying the public hearing announcement requirements of Act 381, must be placed in the local paper(s) no less than 10 days and no more than 40 days before the public hearing.
 - b. **The Washtenaw County BOC** holds a public hearing, reviews and considers the brownfield plan for approval.

For projects located within the City of Ann Arbor the Brownfield Plan Approval Process follows:

[The City of Ann Arbor is in development of a process]

3. Reimbursement Agreement

Once the brownfield plan is approved, a reimbursement agreement must be signed. If capture of school operating taxes for reimbursement of eligible non-environmental costs is contemplated, the reimbursement agreement must be completed and signed before submission of an Act 381 Work Plan for those activities.

Please contact Staff to obtain the Reimbursement Agreement Template and Eligible Activity Tracking Table. Please schedule with Staff to allow enough time for review and execution. Typically, it takes two weeks to fully execute the reimbursement agreement.

4. **Act 381 Work Plan**

If the TIF includes the capture of school operating taxes for eligible activities, an Act 381 Work Plan must be completed in accordance with the requirements of Act 381 and guidance published by the MDEQ/MEDC and submitted to Staff. The general elements in an Act 381 Work Plan include:

- a. Site location, current ownership, future ownership;
- b. Tax information;
- c. Current and future uses;
- d. Property eligibility;
- e. Summary of environmental conditions;
- f. Requested eligible activities;
- g. Detailed scope of work;
- h. Schedules and costs of activities;
- i. Breakdown of eligible costs by taxing jurisdiction

Please note the following eligible activities included in an approved brownfield plan may be reimbursed with school operating taxes without being included in an MDEQ-approved Work Plan:

- (1) Site investigation activities required to conduct a BEA and to evaluate due care issues and obligations required under NREPA Part 201;
- (2) Preparing a BEA report; and
- (3) Preparing a compliance analysis or due care plan(s) to comply with NREPA Part 20107a.

These activities must not begin before the brownfield plan is approved. However, if school operating taxes are to be captured to reimburse interest costs for these “exempt” activities, descriptions and costs for the activities must be included in an Act 381 Work Plan approved by the appropriate agency.

Act 381 Work Plan Approval Process follows:

- 1) Please contact staff to schedule review and submittal times, particularly to ensure MEGA Work Plans are submitted one month prior to the anticipated MEGA Board meeting. Staff will review the Work Plan and work with the developer and/or developer’s representative (consultant) to finalize it. **All Work Plans must be reviewed by Staff before being submitted to the appropriate State agency. Staff will coordinate with the appropriate agency(s) for the submission and review of the brownfield plan, Act 381 Work Plan, and other necessary documents as follows:**
 - a. If the TIF includes the capture of school operating Taxes for environmental activities, Staff will submit a completed Work Plan to the MDEQ. The Work Plan must include the approved brownfield plan, which will be evaluated during the Work Plan review.
 - b. If the TIF includes the capture of school operating taxes for non-environmental activities (in both core and non-core communities), Staff will submit a completed Work Plan to the Michigan Economic Development Corporation (MEDC) to review on behalf of Michigan Economic Growth Authority (MEGA). The Work Plan submission must include the approved brownfield plan, a signed development agreement or reimbursement agreement, and other documents and information required by the MEDC.
- 2) Generally, conducting eligible activities and redevelopment can begin once the relevant elements of the approval process are complete. However, as described above, certain activities conducted prior to Brownfield Plan approval may be reimbursed. Also, different reimbursement schemes may be applicable at specific points in this process: 1) after a brownfield plan is approved and before an Act 381 Work Plan is approved; 2) after both the brownfield plan and an Act 381 Work Plan are approved and/or 3) after a brownfield plan is approved and an Act 381 Work Plan is not required.

5. Activity Timeline and Reimbursement Submittal

Once all approvals have been completed please meet with Staff to discuss eligible activity completion and construction timeline. All actual eligible activity expense documentation and proof of payment must be submitted to the WCBRA for review and approval **within one year after eligible activity completion**. The actual eligible activity expense documentation and proof of payment should be summarized in a form similar to the Eligible Activity Tracking Table, provided with the reimbursement agreement.

Tax Increment Revenues Reimbursement Process follows:

- 1) The WCBRA will begin the reimbursement process after the following have been completed.
 - a. The brownfield plan has been approved
 - b. The Reimbursement Agreement has been executed.
 - c. The Act 381 Work Plan has been approved by the MDEQ and/or MEGA, as appropriate.
 - d. The approved eligible activities have been completed and/or initiated.
 - e. All the appropriate invoices and documentation for actual costs incurred to conduct the approved eligible activities have been submitted and reviewed by the WCBRA, subject to the conditions outlined in the reimbursement agreement.
 - f. TIF capture has begun subject to the following:
 - (a) Property owner must pay taxes
 - (b) The tax year is within TIF capture period specified in the brownfield plan and Act 381.
- 2) The WCBRA will only reimburse the **actual costs** to conduct approved eligible activities. The WCBRA uses only the incremental taxes generated by the redevelopment project to reimburse approved eligible activities, and the yearly reimbursement amount is based on the **actual** yearly incremental taxes collected.
- 3) The actual amount of TIF reimbursement in any year may be reduced by the amount of TIF allocated for reimbursement of WCBRA administrative expenses (see Section 4.b. below) and funding the local site remediation revolving fund, as provided in the approved brownfield plan, reimbursement agreement, and Act 381.

SECTION 3: ASSOCIATED COSTS

1) Project Application Fee

- a) Policy: The fee is calculated from total project investment:
 - i) 0 to \$5Million = \$3,000
 - ii) \$5M - \$10M = \$4,000, and
 - iii) \$10 M and over = \$5,000
- b) The fee will only be assessed if the LUG approves the Application.
- c) The developer is responsible for paying the Application fee to WC Brownfield Program.

2) Administrative costs reimbursement

- a) Annual reimbursement of reasonable and actual WCBRA administrative and operating costs from local taxes is a permitted activity under PA 381 of 1996, as amended. The maximum allowable annual WCBRA administrative costs that can be reimbursed under PA 381 is presented below:
 - Up to five active projects - \$100,000
 - Greater than five and up to ten active projects - \$125,000
 - Greater than 10 and up to 15 active projects - \$150,000

An “active project” is one in which the WCBRA is currently capturing taxes under the PA 381.

- b) These costs are allocated per project and used to cover the actual administrative expenses. Administrative expenses include the following:
 - Assistance provided to communities and developers to prepare and approve brownfield plans and work plans;
 - Review and approval of brownfield plans and work plans;
 - Preparation, review and approval of reimbursement and/or development agreements;
 - Review and approval of actual eligible activities;
 - Managing and accounting tax increment capture and disbursement;
 - Managing and accounting eligible activity reimbursement;
 - Managing and disbursing funds from the LSRRF; and
 - Community education and outreach
- c) For reimbursement of actual administrative expenses, the WCBRA will transfer to its Administrative Fund ten percent (10%) of the total incremental taxes captured annually under each approved brownfield plan for the duration of the plan or as otherwise allowed by statute.
- d) If total incremental taxes transferred in any year to the Administrative Fund from all active brownfield plans exceed the actual WCBRA administrative costs in that year or the maximum allowed by PA 381 (see above), the excess will be used for reimbursement of eligible activities or returned to the taxing jurisdictions. The excess administrative capture will be allocated to each brownfield plan/project on a prorated basis defined by the ratio of the administrative capture from that plan/project to the total administrative capture for that year. If eligible costs in an individual plan remain to be reimbursed, the prorated excess will be applied to cost reimbursement. If all eligible costs have been reimbursed, the excess will be distributed to the local taxing jurisdictions on a prorated basis according to the ratio of that jurisdiction’s millage to the total millage captured.

3) Local Site Remediation Revolving Fund Capture

It is the intent of the WCBRA to capitalize the Local Site Remediation Revolving Fund (LSRRF) incrementally. The WCBRA intends to include provisions to capture revenues for deposit into the LSRRF in the approved brownfield plan for each property/project located in the Brownfield Redevelopment Zone (as defined in **Section 1: Background**). The WCBRA intends to capture all or a portion of the LSRRF funds **during** the reimbursement period for eligible activities; however, each plan will be considered on a case-by-case basis to determine the most appropriate method for capturing LSRRF funds.

LSRRF funds will be used to further the purpose of the Program, which is to facilitate the redevelopment of previously developed sites classified as a “facility”, functionally obsolete or blighted as defined by Public Acts 381 of 1996 and 451 of 1994 (Natural Resources and Environmental Protection Act-NREPA), as amended. LSRRF funds can only be used to fund eligible activities, as defined by PA 381. LSRRF funds are eligible for use by all eligible properties located within the Brownfield Redevelopment Zone to assist with the completion of eligible activities. The LSRRF funds typically will be distributed as revolving loans, which allows these funds to continually revolve throughout the Brownfield Redevelopment Zone. LSRRF funds may be distributed as grants in response to exceptional circumstances solely at the discretion of the WCBRA. The use of the funds will be determined on a case-by-case basis. The following criteria must be met:

- a. The WCBRA will capture incremental local and school operating taxes, to the extent allowed by law, to fund the LSRRF until funds in the following amount have been placed in the LSRRF: a minimum of fifteen percent (15%) of the total eligible activities to a maximum amount equivalent of five years capture after eligible activities costs have been reimbursed.
- b. The rate and schedule of incremental tax capture for the LSRRF will be determined on a case-by-case basis. Considerations will include, but not be limited to the following; input from the municipal member (e.g. total capture amount), total capture duration, total annual capture, project economic factors, level of existing LSRRF funding, and projected need for LSRRF funds.
- c. School operating taxes for MDEQ eligible activities can be captured for LSRRF deposit, but school operating taxes for MEGA eligible activities cannot be captured for LSRRF deposit. The amount of school operating taxes deposited into the LSRRF for MDEQ activities cannot exceed the total amount of school operating taxes used to reimburse eligible activities.
- d. If an approved brownfield plan does not provide for the capture of incremental school operating taxes, or provides for reimbursement of only MEGA eligible activities, LSRRF capture will derive solely from incremental local taxes. In these circumstances, the impact of LSRRF funding on the duration of local tax capture will be considered in determining the amount and schedule for LSRRF capture.
- e. Exceptions to this policy due to extraordinary circumstances will be considered on a case by case basis.

SECTION 4: OVERVIEW OF BROWNFIELD FUNDING OPPORTUNITIES

There are a variety of incentives available for brownfield redevelopment. These incentives include tax increment financing, tax credits, real and personal property tax abatements and state and federal grants and loans.

In addition to specific brownfield incentives there are a variety of other funding sources that can be linked to brownfield redevelopment. There are a variety of tax incentives available at the local and state level, described in more detail by the Michigan Economic Development Corporation website:

<http://www.themedc.org/Products-Services/A-Z-Programs/Default.aspx>. There are also other grants available through various state and federal agencies such as Michigan Department of Transportation (MDOT), Department of Housing and Urban Development (HUD), Michigan State Housing Development Authority (MSHDA), Michigan Department of Natural Resources (MDNR) and others. These grants are awarded on a project-by-project basis depending on the type of project and how it fits with the goals of the grant being applied for. In addition, these grants usually require that the applicant be a government agency or a Brownfield Redevelopment Authority, in which case staff would assist with the application and submit it on the developer's behalf.

1) **Tax Increment Financing (TIF)**

Purpose:

TIF can be used to reimburse a developer environmental and non-environmental **eligible activity** costs. TIF uses the incremental increase in the taxes on the property resulting from the new development for reimbursement.

How TIF Works:

The new taxes generated by redevelopment are "Captured" by the WCBRA and used to reimburse the **actual** cost of eligible activities. However, the local community does not lose current, baseline taxes from brownfield properties.

Eligible Properties:

- Properties that are "facility, functionally obsolete or blighted," as defined by PA 381.
- Refer to Section 5 for more details about adjacent and contiguous properties.
- There is an approved Brownfield Plan in place.

Eligible Activities:

All Communities:

- Baseline Environmental Assessments (BEAs)
- Due care activities (which limit exacerbation of, or exposure to, contamination on a site)
- Additional response activities
- Reasonable costs of preparing a brownfield plan, work plan and actual cost of work plan review
- Demolition
- Lead and Asbestos Assessment and Abatement
- Administrative fees (see Section 3)
- Capture for the local site remediation revolving fund (see Section 3)

Qualified Local Units of Government (LUG) (a.k.a "core communities"),

- Activities eligible in "All Communities"
- Infrastructure improvements that benefit the public
- Site preparation

2) Tax Credits

a) **Michigan Business Tax (MBT) credit**

Purpose:

Provides a credit on the **eligible investment** against a developer's MBT liability. Credits are available for up to 12.5% of eligible investments, or 20% for certain Urban Development Area Projects as designated by the Michigan Economic Growth Authority (MEGA) Board. Tax credits are available in three categories: 'Large' credits, with investment greater than \$10 million; 'small' credits, with investment between \$2 million and \$10 million; and 'mini' credits, with investment of \$2 million or less.

Eligible Investment

Eligible investment includes the hard costs associated with demolition, construction, restoration, alteration, renovation or improvement of buildings or site improvements on eligible property and the addition of machinery, equipment and fixtures. These investments must occur after the approval of a brownfield plan but no earlier than 90 days prior to date of the preapproval letter.

Selection Criteria

Credits will be awarded to projects that best meet the following criteria (as defined by MEDC):

- The host community is a willing participant in the project and is making a substantial local financial/fiscal contribution to the project through programs such as Tax Increment Financing (TIF), property tax abatements, Neighborhood Enterprise Zones, local revolving funds or other programs.
- The project is a mixed-use project that is located in the traditional downtown or within immediate walking distance of the downtown area, including development 'nodes' or walkable neighborhoods.
- Projects that, even after the Brownfield Redevelopment Authority TIF has mitigated the excess costs of the site related to brownfield conditions, still need an incentive to reuse the site due to market conditions, risk or other factors.
- Project plans that reasonably improve the condition that qualifies the project as a brownfield.
- Projects that assist our state's manufacturers in meeting the pressures of national or international competition by reusing existing facilities.

Process

All Brownfield MBT credits are applied for through MEGA. There is a four-step process to become eligible for a credit.

- i. A Brownfield Redevelopment MBT Credit Application—Part I must be filed with MEGA that outlines the project and allows MEGA staff to make a determination whether the project has a reasonable chance of being approved by the chair of the MEGA or by the MEGA Board.
- ii. An invitation to complete and submit a full application (Part I and Part II) is given if the project meets both the statutory requirements and selection priorities outlined above. If the application is complete, it is forwarded to the MEGA for approval or denial.
- iii. Approved projects then receive a pre-approval letter from the MEGA which establishes the date investments may be undertaken on the eligible property and be eligible for the MBT credit.
- iv. When the project is completed, the qualified taxpayer must submit a Certificate of Completion Request for the eligible investment and identify each taxpayer entitled to a credit for the project. If all requirements are met, the state will then issue a Certificate of Completion, after which the taxpayers may claim an MBT credit.

b) **Historic Preservation Tax Credits**

These tax credit opportunities encourage owners to protect and restore the historic landscape of the area. Through a combination of Federal and State programs, up to a 25% tax credit can be

earned. Approval by the Historic District commission for a project does not signify qualification for tax credits. The work must first be approved at the state and federal level for credits.

Federal Historic Preservation Tax Credits:

Owners of properties that are eligible for, or already on the National Register of Historic Places or properties that are located within a Historic District are eligible for a 20% rehabilitation tax credit (only for commercial, industrial, agricultural, or rental residential purposes – not owner occupied). Property owners can check property status in the database located on the National Parks Service website: <http://www.nps.gov/history/nr>. A 10% rehabilitation tax credit is available for non-historic structures built before 1936. The building must be rehabilitated for non-residential uses.

State Historic Preservation Tax Credits:

Michigan resource owners and long-term lessees who undertake a qualified rehabilitation project of certain resources may be eligible for up to 25% of qualified rehabilitation expenditures. Homeowners, commercial property owners, and business owners are all eligible for this tax incentive. This process requires that the property owner first apply for the federal historic preservation tax credit. If the federal credit is received, the amount of the state credit will reduce the amount of the federal credit. The combination of the two credits cannot exceed 25%.

For more information contact Melissa Milton-Pung, Principal Preservation Planner, Washtenaw County Office of Strategic Planning, 734-222-6878, miltonpungm@ewashtenaw.org

c) **MEGA Tax Credits**

There are a variety of MEGA tax credits available and depend on the project. Please refer to the MEDC website for more detailed information: <http://www.themedc.org/Products-Services/A-Z-Programs/Default.aspx>

3) **Tax Abatements**

There are a variety of real and personal tax abatements available. Please contact the local unit of government in which the project is located for eligibility and a complete list of tax abatements. More information is also available from the MEDC at <http://www.themedc.org/Products-Services/A-Z-Programs/Default.aspx>. The following tax abatements may be available:

a) **Obsolete Property Rehabilitation Act (OPRA)**

The OPRA tax abatement is designed to promote redevelopment of contaminated, blighted, or functionally obsolete properties used for either commercial or commercial housing. This law allows the city to “freeze” the taxable value of a structure (before improvements are made) for no less than 1 year and no longer than 12 years. OPRA Exemptions essentially allow property owners to rehabilitate their buildings property tax free, with the exception of school taxes. However, the Michigan Department of Treasury has the authority to exempt one-half of the school millage for up to six years using the same application.

Please contact the local unit of government in which the project is located for complete details.

b) **Commercial Rehabilitation Tax Exemption**

Similar to the OPRA tax exemption, a local unit of government can provide property tax abatement for a period of 1 to 10 years for owners of certain rehabilitated commercial facilities in designated districts. Commercial Rehabilitation Tax Exemption certificates freeze the property at its pre-rehabilitated value, effectively allowing the rehabilitation to be property tax free, with the exception of school operating taxes. Land and most personal property are not eligible for a Commercial Rehabilitation tax exemption.

Please contact the local unit of government in which the project is located for complete details.

c) **Personal Property Tax Exemption (PA 328)**

PA 328 allows distressed communities to offer a personal property tax exemption to spur investment in the Industrial Development District, Brownfield Redevelopment District, Local

Development Financing District/ Smart Zone, or the Downtown Development District. New personal property (equipment) leased or owned by eligible businesses and located within an “eligible district” could be 100% exempt from personal property taxes on both the local and state levels following local approval. This incentive is not project-specific and extends to all personal property investments during the time of the exemption.

4) Federal and State Grants and Loans

The Environmental Protection Agency and the Michigan Department of Environmental Quality offer a variety grants and loans to assist with environmental site assessment, contamination remediation and brownfield redevelopment activities. Details are provided below.

a) Federal EPA Grants and Loans

The following EPA grants are available for application on an annual basis. Please contact WCBRA Staff for more information about funding cycles and coordination of applications.

i) EPA Assessment

Assessment grants provide funding for a grant recipient to inventory, characterize, assess, and conduct planning and community involvement related to brownfield sites. An eligible entity may apply for funds to assess a site contaminated by hazardous substances, pollutants, or contaminants (including hazardous substances co-mingled with petroleum) and to address a site contaminated by petroleum.

ii) EPA Cleanup

Cleanup grants provide funding for a grant recipient to carry out cleanup activities at brownfield sites. An eligible entity may apply for up to \$200,000 per site. Due to budget limitations, no entity should apply for funding cleanup activities at more than five sites. These funds may be used to address sites contaminated by petroleum and hazardous substances, pollutants, or contaminants (including hazardous substances co-mingled with petroleum). Cleanup grants require a 20 percent cost share, which may be in the form of a contribution of money, labor, material, or services, and must be for eligible and allowable costs (the match must equal 20 percent of the amount of funding provided by EPA and cannot include administrative costs). A cleanup grant applicant may request a waiver of the 20 percent cost share requirement based on hardship. An applicant must own the site for which it is requesting funding at time of application or demonstrate the ability to acquire title. The performance period for these grants is two years.

iii) EPA Revolving Loan Fund (RLF)

The RLF can assist with the up-front costs of clean-up on a brownfield site by providing low interest loans for governmental entities, private developers, and non-profit organizations. The RLF can be used for remediation and clean-up activities necessary to remove the source of contamination and to address the contaminated soil and groundwater on the site. RLF funds typically require a 20% cost share.

Please refer to: <http://epa.gov/brownfields/pilot.htm> for more information about EPA grants and funding sources and contact WCBRA staff to discuss your project.

b) State Grants and Loans

The following state grants are available for application on an ongoing basis. Please contact WCBRA staff for more information about funding.

i) Clean Michigan Initiative (CMI) Brownfield Redevelopment Grant

Brownfield redevelopment grants provide funding to local units of government and other public bodies to investigate and remediate known sites of environmental contamination, which will be used for identified economic redevelopment projects. Any county, city, village, township, Brownfield Redevelopment Authority, or other authority or other public body created pursuant to state law may apply for a grant. Eligible activities include environmental

investigations and assessments, interim response, and due care response activities necessary for the proposed development. Only one project may be awarded to an applicant during any state fiscal year, but an applicant can receive both a Brownfield Redevelopment Grant and a Brownfield Redevelopment Loan in the same year. A liable party may not profit from the expenditure of state funds nor be relieved of responsibility for environmental response activities. The maximum grant award is \$1 million dollars per project.

ii) Revitalization Revolving Loan

The Revitalization Revolving Loan Program is designed to support local community efforts to redevelop brownfield properties by providing eligible entities with low-interest loans which may be used to evaluate contaminated or potentially contaminated properties, demolish dangerous or hazardous buildings that obstruct redevelopment, and to conduct interim response actions necessary to investigate a property or demolish a building. Any county, city, township, village, or BRA may apply for a loan. The property must also be a "facility" as defined in Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. The loan conditions are the same as the Brownfield Redevelopment Loans and there is no minimum or maximum loan amount.

iii) CMI Brownfield Redevelopment Loan

Brownfield redevelopment Loans have a similar purpose and provide funding for similar activities as Brownfield Redevelopment Grants. A proposed project must have economic development potential. A municipality must pledge its full faith and credit to secure the loan. When the Brownfield Redevelopment Authority (BRA) is the applicant, the municipality under which the BRA was formed, must make this pledge. The Michigan Department of Treasury will approve the applicant's ability to incur the debt. Loans are offered at an interest rate of 2.0 percent, simple interest. There are no payments or interest due for the first five years after a loan is awarded. Annual payments begin in the fifth year of the loan. The full amount must be repaid within 15 years of the loan award. This arrangement provides an excellent opportunity for a community, or the BRA, to use tax incremental financing under the provisions of the Brownfield Redevelopment Financing Act, 1996 PA 381, as amended, to capture future taxes generated from the redevelopment of the property, to repay the loan. Brownfield Redevelopment Loans can be used for environmental site investigations, site clean-ups, and demolition in limited situations where environmental remediation is being conducted.

Please contact WCBRA Staff for funding availability and refer to:

http://www.michigan.gov/deq/0,1607,7-135-3311_4110_29262---,00.html for more information.

SECTION 5: SUMMARY OF THE BROWNFIELD REDEVELOPMENT FINANCING ACT, PUBLIC ACT 381 OF 1996, AS AMENDED

The following summary was completed by the Michigan Department of Environmental Quality.

When the Brownfield Redevelopment Financing Act, 1996 PA 381, as amended (Act 381) was passed in September of 1996 it was creative; it was a financing statute with economic and environmental benefit. It allowed municipalities to establish a brownfield redevelopment authority (BRA), adopt brownfield redevelopment financing plans, and capture incremental local and school property taxes from redeveloped contaminated properties to pay for the environmental costs associated with those properties. It established a way for property improvements associated with cleanup and redevelopment to pay for environmental activities necessary for safe redevelopment. The law went unchanged until it was improved in 2000.

The June 2000 amendments were major and innovative. They provided municipalities with additional tools to encourage brownfield redevelopment by introducing the "qualified local governmental units" concept. This allowed tax increment financing to pay for a wider variety activities on more types of properties. Brownfields now included blighted or functionally obsolete properties which became eligible properties in qualified local governmental units. Eligible activities were expanded to include infrastructure improvements, demolition, lead and asbestos abatement, and site preparation in those communities. And the other incentive of equal importance was the eligibility to apply for the Single Business Tax Credit (now the Michigan Business Tax) for eligible property included in an approved brownfield plan.

Act 381 was amended again in December of 2002. The main provision was extension of the sunset through December 2007 for approval of work plans to capture school taxes to conduct eligible activities under a brownfield plan.

The amendment to Act 381 in December 2007 extended the sunset through December 2012; however, numerous other changes were made. The amendments included new eligible activities, changes to the public notification and hearing process, clarification of several provisions, changes to the work plan approval process to increase local authority and streamline the process, and increases in the annual cap for a BRA's annual administrative and operating expenses, to name a few. Act 381, as amended, can be found at: <http://legislature.mi.gov/doc.aspx?mcl-act-381-of-1996>.

1) General Provisions

- A municipality may establish one or more BRAs to implement brownfield plans.
- A county may operate a BRA on behalf of a municipality located within the county only if the municipality concurs with the provisions of the brownfield plan for the eligible property located within the municipality.
- A municipality must hold a public hearing before approval of a brownfield plan.
- A BRA may develop a brownfield plan that identifies which properties the BRA will conduct eligible activities on and from which it will capture taxes.

2) Tax Capture Provisions

- All incremental property taxes that come from the increased value of an eligible property, including taxes levied for school operating purposes, can be captured. Capture must start within 5 years of the base year, which is the year the property was added to the brownfield plan, and cannot exceed 30 years. Taxes already captured as part of an existing tax increment financing plan (under other state laws) and taxes levied to pay off specific obligations are exempt.
- For the purposes of Act 381, school taxes are the local school operating tax and the state education tax.
- Approval of a work plan by the Department of Environmental Quality (DEQ) is necessary if school taxes will be used to conduct certain eligible environmental response activities.

- Approval of a work plan by the Michigan Economic Growth Authority (MEGA) is necessary if school taxes will be used to conduct all eligible non-environmental activities.
- The percentage of local taxes captured must be equal to or greater than the percentage of school taxes captured - considering all tax capture plans in place under Act 381 or other state laws.
- A BRA may issue revenue and tax increment financing bonds and notes to finance the eligible activities and use tax increment revenues to pay off the obligations.
- Interest costs associated with financing of the eligible activities can be reimbursed with captured taxes.
- A BRA may establish a local site remediation revolving fund and place excess captured taxes from properties at which eligible activities are conducted into the fund. The BRA can use the fund to conduct eligible activities at other eligible properties.
- Depending on the number of active projects, a BRA may capture up to \$300,000 per year in local taxes for reasonable and actual administrative and operating expenses of the BRA.
- School taxes may not be used for response activities that benefit a party who is liable under Section 20126 of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).
- The state or BRA may take appropriate legal action to recover the costs of eligible activities funded through tax capture from person(s) who are liable for the contamination.

3) **How Captured Taxes Can Be Used**

Captured taxes can be used pay for the costs of eligible activities that are conducted on eligible property.

a) **Eligible Properties:**

Properties that are “facility, functionally obsolete or blighted,” as defined by PA 381. A property is also considered an eligible property if it is adjacent or contiguous to the facility, functionally obsolete or blighted property if the development of the adjacent or contiguous property is estimated to increase the captured taxable value of facility, functionally obsolete or blighted property.

b) **Eligible Activities:**

All Communities:

- Baseline Environmental Assessments (BEAs)
- Due care activities (which limit exacerbation of, or exposure to, contamination on a site)
- Additional response activities
- Reasonable costs of preparing a brownfield plan, work plan and actual cost of work plan review
- Demolition that is not a response activity
- Lead and Asbestos Assessment and Abatement
- Reasonable costs of environmental insurance
- Administrative fees (see Section 3)
- Capture for the local site remediation revolving fund (see Section 3)

Qualified Local Units of Government (LUG) (a.k.a “core communities”),

- Activities eligible in "All Communities"
- Infrastructure improvements that benefit the public
- Site preparation that is not a response activity

At a BRA's discretion, property taxes from an eligible property in excess of the amount needed to pay for the eligible activities can be captured and deposited into a local site remediation revolving fund. This excess capture can continue for up to five years after the aforementioned costs are reimbursed. The revolving fund can be used only for eligible activities on other eligible properties within the municipality. Excess school tax capture is limited to the amount of school taxes captured/used to reimburse the actual cost of the environmental response activities or up to five years, whichever comes first. Excess school taxes cannot be captured on activities approved by the MEGA; however, the revolving fund may be used to fund MEGA-eligible activities on eligible properties.

4) **School Taxes & Work Plans**

A BRA cannot use school taxes to reimburse the cost of certain eligible activities unless the activities are consistent with a work plan approved by the DEQ or MEGA prior to the work being conducted. Currently, work plans for use of school taxes must be approved by the end of December 2012.

a) **Eligible activities requiring DEQ approval:**

- Implementation of response activities to comply with due care requirements of Part 201 (does not include due care evaluation and due care plan)
- Implementation of additional response activities
- Reasonable costs of environmental insurance

b) **Eligible activities requiring MEGA approval:**

- Infrastructure improvements that directly benefit the property
- Demolition that is not a response activity
- Lead or asbestos abatement
- Site preparation that is not a response activity.

As indicated previously, financing costs are an eligible expense. MEGA approval of interest costs is required for all activities approved in a work plan by the MEGA. DEQ approval of interest costs is not required for activities approved in a work plan by the DEQ.

Sufficient time must be allowed for work plan review and must be taken into consideration during the planning phase of the project. The statute requires that a written response be provided regarding work plan acceptability. Review periods are dependent upon the type of eligible activities to be conducted and which agency is completing the reviews and are statutorily mandated as follows:

- DEQ BEA and due care activities: **60 days**
- MEGA non-environmental activities: **65 days**
- DEQ additional response activities: The statute does not specify a review period; however, work plans must be reviewed within six (6) months under Part 201 of the NREPA. Under most circumstances you can expect a response much quicker than this.
- DEQ review of requested additional information: **45 days**

For a combined DEQ/MEGA work plan, you will receive separate written responses from each agency regarding their review and determination.

It is strongly recommended that the appropriate agency representative be contacted to discuss the project prior to submission of an Act 381 work plan (see agency contacts below). This will help save time on preparation of the work plan, prevent inclusion of ineligible activities that would not be approved, and reduce agency review time and cost.

5) **Work Plans**

The authority determines which of the eligible activities will be conducted at an eligible property. An authority cannot capture school taxes to conduct the eligible activities unless the activities are consistent with a work plan approved by the DEQ or MEGA prior to the work being conducted. Work plans for school tax capture must be approved by the end of December 2007. For adjacent or contiguous properties, see reference in Tax Capture Provisions above regarding additional circumstances under which MEGA approval is required.

The work plan must be submitted to the DEQ and/or MEDC by the authority, not by the property owner, developer, consultant, etc. The work plan must include a copy of the brownfield plan as approved, by resolution, by the governing body of the municipality. For eligible properties that have both DEQ and MEGA activities, one work plan should be prepared for submission to both agencies. It is **strongly recommended** that the appropriate agency representative be contacted to discuss the

project **prior** to submission of an Act 381 work plan (see agency contacts below). This will help save time on preparation of the work plan, prevent inclusion of ineligible activities that would not be approved, and reduce agency review time and cost.

Sufficient time must be allowed for work plan review and must be taken into consideration during the planning phase of the project. The statute allows different review times depending on the type of eligible activities to be conducted and which agency is completing the review.

- DEQ BEA and due care activities: 60 days.
- MEGA eligible activities: 65 days.
- DEQ additional response activities: The statute does not specify a review period; however, work plans must be reviewed within six (6) months under Part 201 of the NREPA. You can expect a response from DEQ within this timeframe.
- The statute requires a written response regarding work plan acceptability. For a combined DEQ/MEGA work plan, you will receive separate written responses from each agency regarding their review and determination.

6) **Questions?**

For answers to questions regarding the DEQ Act 381, please link to the [Frequently Asked Questions](#) document.

Questions regarding preparation and submission of an Act 381 work plan should be directed to the agency responsible for review of the eligible activity.

DEQ-Remediation and Redevelopment Division

Darlene Van Dale, 989-705-3453, vandaled@michigan.gov or
Ron Smedley, 517-373-4805, smedleyr@michigan.gov

Michigan Economic Development Corporation

Peter Anastor, anastorp1@michigan.org or Sarah Latta Rainero, raineros@michigan.org

Q: What is the Local Site Remediation Revolving Fund (the “Local Fund”)?

A: The Brownfield Redevelopment Financing Act, 1996 PA 381, as amended (Act 381) states that “An authority may establish a local site remediation revolving fund and place excess captured taxes from properties at which eligible activities are conducted into the local fund. The authority can use the local fund to conduct eligible activities at other eligible properties.”

Act 381 authorizes up to five additional years of capture for the Local Fund after the eligible project expenses have been reimbursed. The total TIF capture for both the eligible expenses and the Local Fund cannot exceed 30 years.

The Local Fund is able to provide loans to developers for all activities associated with brownfield redevelopment. This includes not only clean-up activities, but also assessment work, creation of brownfield plans, due care activities, consultant oversight, and demolition.

Q: What is the Local Fund policy?

A: The Washtenaw County Brownfield Redevelopment Authority (the “WCBRA”) will capture a minimum of fifteen percent (15%) of the total eligible activities to a maximum amount equivalent to five years capture after eligible activities costs have been reimbursed. for the Local Site Remediation Revolving Fund (the “Local Fund”). Exceptions to this policy due to extraordinary circumstances will be considered on a case by case basis.

Q: What is the difference between the Local Fund and the EPA Revolving Loan Fund Grant (“the EPA RLF”)?

A: The goal of the EPA Revolving Loan Fund Grant program is to provide low interest loans for clean-up of contaminated sites to governmental entities, private developers, and non-profit organizations. The EPA RLF is an established grant with more stringent parameters surrounding the activities allowed for funding than the Local Fund. These parameters state that the dollars under this EPA Grant can only be used for clean-up activities related to the contamination during the first 5 years the grant is in operation

Q: If the eligible activities reimbursable by the TIF require less money than what was estimated and approved in the Brownfield Plan, will the Local Fund capture change to reflect this?

A: The additional ten percent (15%) minimum capture is calculated from the actual TIF amount, not the proposed amount. Therefore, if the costs associated with the clean-up are less than the original estimate included in the Brownfield Plan, the Local Fund capture will be based on the actual final amount expended.

Q: Will the additional tax capture for the Local Fund adversely affect the School District in my jurisdiction?

A: No, the capture does not affect the school district because of Proposal A and the School Aid Act, which distributes funding to school districts on a per pupil basis. School District will continue to receive the allotted amount per student regardless of the school taxes being paid, or captured, on this site. Additionally, because of Proposal A all schools will be made “whole,” that is there will be no difference in the amount of money that a school district in Michigan receives per pupil.

If your jurisdiction has a Local Enhancement Millage that is used for the school district, it may be minimally impacted, however if the project is a non-homestead property, this will not apply since the millage is only paid by homestead taxes.

Q: Will the fact that the Local Fund can be used anywhere in the County hinder improvement of the tax base of my jurisdiction?

A: No, the capture does not affect the School District whether or not the Local Fund is used in the jurisdiction the project is located in because of Proposal A, and the School Aid Act, which distributes funding to school districts on a per pupil basis.

Improvement of the tax base of each jurisdiction in the County will result from development in that jurisdiction. If there are brownfield projects, the Local Fund will be able to assist the developers to redevelop sites in the County as long as there is money available. Developers in any WCBRA member jurisdiction are able to apply for these funds if they have a Brownfield Project.

Q: Do larger communities such as Ann Arbor and Ypsilanti have a higher likelihood of using the Local Funds contributed by other jurisdictions throughout the county?

A: It is impossible to speculate what jurisdictions will have projects that apply for the Local Funds, but based on current experience it appears that the Loan Funds are more attractive to developers that are doing smaller projects.

Q: Have other jurisdictions with brownfield projects approved contribution to the Local Fund once all eligible activities related to the clean-up of contamination are reimbursed?

A: Yes. To date all jurisdictions with brownfield projects have approved contribution to the Local Fund. The only time a project will not be able to contribute is if it will take 30 years to reimburse the developer for the eligible activities. Thirty years is the maximum years a project is allowed to capture TIF under PA 381.

Q: Can the Local Funds be used in non-core communities (see glossary of terms) for activities other than clean-up of contamination?

A: The Local Fund is able to provide loans to developers for all activities associated with brownfield redevelopment, including not only clean-up activities, but also assessment work, creation of brownfield plans, due care activities, consultant oversight, and demolition. These activities are allowed regardless of designation as a core community.

Alternatively, the EPA Grant can only be used for clean-up activities related to the contamination. This requirement applies for both core and non-core communities.

Q: What has to be approved for the TIF to be approved?

A: The Brownfield Plan must be approved by the local jurisdiction, the WCBRA, the County, and the State for the project to be approved for TIF.

Q: What are additional benefits of the Local Fund?

A: Redeveloping brownfields helps to ease urban sprawl and promote economic development and job creation by encouraging the reuse of underutilized sites in established commercial and industrial districts where public services are already in place. The WCBRA has made a commitment to its member communities to facilitate the redevelopment of previously developed sites, which is consistent with the community's commitment to sustainability and its vision for the future. The Local Fund will provide the WCBRA and member communities with another mechanism to uphold this commitment.

A brownfield project in a WCBRA member community captures taxes from all jurisdictions on that parcel to pay for the eligible costs associated with the contamination. Although a portion of the taxes captured for the RLF are being drawn from local taxes, they are also being contributed from all of the other taxing jurisdictions, including the State, the County, the Intermediate School District, Washtenaw Community College, and the Library. Therefore, the value of dollars brought into the

member community to assist with a project and the associated costs is greater than the value of dollars we are asking the member community to contribute to the RLF.

While the Local Fund and the EPA Grant are available to all brownfield site developers, an additional benefit is that they are available to non-profits and local units of government as no interest loans, since a tax exempt entity cannot use TIF to reimburse the costs of the eligible activities associated with the clean-up of the site. If this was not available these entities would have to bear the up-front cost of the clean-up and the interest on their own.

SECTION 7: GLOSSARY OF TERMS

AAI – All Appropriate Inquiry – Refers to the requirements for assessing the environmental conditions of a property prior to its acquisition. Replaces ASTM Standard E 1527-2000 and ASTM Standard E 1903-97. Site characterizations or assessments conducted by entities with the use of brownfields grants awarded under CERCLA Section 104(k)(2)(B)(ii) must be conducted in accordance with the "all appropriate inquiry" standards established under the law.

ACM – Asbestos Containing Materials

AL – Acceptable Level

AST – Aboveground Storage Tanks

ASTM E1527-05 Standard Practice– American Society for Testing Methods – outlines good commercial and customary practice for conducting an ESA (Phase I) and establishing “due diligence”

ASTM E1903-97 Standard Practice– American Society for Testing Methods – provides a framework for employing good commercial and customary practices in conducting a Phase II ESA of property with recognized environmental conditions

BEA – Baseline Environmental Assessment – An evaluation of environmental conditions for a piece of property or facility prior to being purchased. A BEA focuses on the contamination of hazardous substances on the piece of property. The purpose is to protect the purchaser of a facility from liability of cleanup of conditions from previous owners’ actions.

BEDI – Brownfields Economic Development Initiative – To empower localities to work with public and private stakeholders to prevent, assess, safely cleanup and sustainably reuse abandoned, idle or underused properties where real or perceived contamination has impeded development.

Blighted Properties – Includes blighted properties that have been declared a public nuisance according to local building codes, an attractive nuisance to children in its physical condition, a fire hazard or otherwise dangerous to people or property, have been disconnected from necessary utilities making it unfit for its intended use, or tax-reverted property. Also includes functionally obsolete properties that can no longer be used for its intended use based on overcapacity, changes in technology, deficiencies in design, or other similar factors.

BOC – Washtenaw County Board of Commissioners

Bona Fide Prospective Purchaser (BFPP) – all disposal took place before the date of purchase; person made all appropriate inquiry; person exercises appropriate care with respect to any release; provides full cooperation, assistance, and access to persons authorized to undertake response actions or natural resource restoration; complies with land use restrictions and does not impede performance of institutional controls; complies with all information requests; provides all legally required notices regarding releases of hazardous substances; person is not potentially liable or affiliated with any other person potentially liable.

BRA - Brownfield Redevelopment Authority

Brownfield – Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or perceived presence of a hazardous substance, pollutant, or contaminant. Also, a blighted, contaminated or functionally obsolete property where new development will not occur without financial assistance for clean up, clearing or rehabilitation of existing structures.

Brownfield Plan – A plan prepared by the local brownfield redevelopment authority and adopted by the local governing body that meets the requirements of Section 13 of the Michigan Brownfield Redevelopment Financing Act, P.A. 381 of 1996, as amended. Such plans generally describe the responsibilities and priorities of the local brownfield redevelopment authority and outline how tax

increment financing and other incentives will be used to support the costs of eligible activities for specific redevelopment projects.

Brownfield Redevelopment – The purpose of a Brownfield Redevelopment Program is to facilitate the redevelopment of a property classified as a “facility” of property where concentrations of hazardous substances are above the allowable limits as defined by PA Act 381.

CA – Corrective Action

CERCLA – Comprehensive Environmental Response, Compensation, and Liability Act

CDBG – Community Development Block Grant – Office of Community Development (OCD) allocates Community Development Block Grant (CDBG) funding to county governments through the County Allocation Program. Most county governments use these funds to implement countywide homeowner rehabilitation programs.

Capture of Tax Increment Revenues – Collection of the annual amount by which the current taxable value of an eligible property subject to a brownfield plan exceeds the property’s initial taxable value or base year value after redevelopment. Such revenues may be collected by the BRA annually to support the costs of eligible activities under the adopted brownfield plan.

Clean Michigan Initiative (CMI) – A \$675 million general obligation bond approved by the voters on November 3, 1998, and implemented under the authority of Section 6(1) of Part 196, Clean Michigan Initiative Implementation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). The \$675 million bond is broken into several categories, with \$335 million targeted specifically for Brownfield Redevelopment.

Core Communities – Under the Obsolete Property Rehabilitation Act, P.A. 146 of 2000, as amended, meets certain demographic and socio-economic conditions to be eligible for this “core communities” designation. Such a designation allows for the use of additional incentives to support brownfield and other redevelopment activities within such communities. The City of Ann Arbor and the City of Ypsilanti are two core communities located in Washtenaw County.

DNR – Department of Natural Resources (State of Michigan)

Due Care Activities – Section 20107a of the NREPA and the Due Care Administrative Rules requires owners or operators of contaminated property to take “Due Care” actions to prevent unacceptable exposures to the contamination, prevent exacerbation of the contamination, protect against the foreseeable actions of third parties, and provide notification of abandoned containers or migration of contaminants beyond the property boundary.

Due Diligence – Obligation of a potential owner or operator to make appropriate inquiry (or as it is often called, perform due diligence) as to whether environmental contamination is present of a piece of property. Initial steps include asking the seller or owner about any known environmental assessments as well as to conduct an environmental assessment.

EREA – Environmental Real Estate Assessment – conducted to rank prospective urban and rural brownfield properties regarding environmental risk and redevelopment potential. It is a part of the Phase I environmental assessment.

Environmental Site Assessments (ESA) Phase I — first stage of environmental assessments to determine if any REC’s exist. The research is done through review of property use and historical records, interviews past property owners or employees, site reconnaissance visit, and review adjacent properties.

Environmental Site Assessments (ESA) Phase II — the second stage of assessments which is done if the Phase I identified any REC’s. These assessments determine the, location and levels of contamination through on-site soil sampling and analysis.

Eligible Activities – Includes one or more of the following: baseline environmental assessment, due care, and additional response activities. In qualified local governmental units also includes infrastructure improvements that directly benefit eligible property, demolition of structures and site preparation that is not a response activity under Part 201 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended, and lead or asbestos abatement.

Eligible Properties – Includes properties that are “facilities” with evidence of environmental contamination that exceeds the State of Michigan’s Generic Residential Cleanup Criteria as defined by Part 201 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended. May include adjacent or contiguous parcels if the development of such parcels is estimated to increase the taxable value of the property that is a “facility” and is subject to a brownfield plan. In qualified local governmental units also includes blighted and functionally obsolete properties. In Washtenaw County, must be located in a core community.

Facility – Any area, place, or property where a hazardous substance in excess of the clean-up criteria for unrestricted residential use has been released, deposited, disposed of, or is otherwise located, as defined by Section 20101 of Part 201 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

GIS – Geographic Information System

HASP – Health and Safety Plan

Institutional Controls - Land use or operational restrictions imposed at a site of environmental contamination for the purpose of reducing human exposures and environmental impacts to levels below those determined to cause harm. Examples include restricting land use to industrial/commercial development and prohibiting use of groundwater on a site.

Isolation – the use of barriers to prevent exposure or migration

LUG – Local unit of government

LUST – Leaking underground storage tanks

Local Site Remediation Revolving Fund – A local revolving fund capitalized by tax increment financing revenues collected by the brownfield redevelopment authority for up to five years after project reimbursement obligations are satisfied for a specific brownfield redevelopment project. Funds may be utilized to support eligible activities on other eligible properties under jurisdiction of the local brownfield redevelopment authority.

MDEQ – Michigan Department of Environmental Quality (oversees clean-up)

MEGA – Michigan Economic Growth Authority (oversees economic aspect)

Member Municipality – Municipality whose local governing body has passed a resolution of support to be included within the jurisdiction of the Washtenaw County Brownfield Redevelopment Authority.

NPL – National Priority List

NREPA – National Resources Environmental Protection Act, P.A. 451 of 1996, as amended.

Natural Attenuation – Relying on the natural capacity of the ecosystem to reduce the toxicity of a contaminated site. This is normally done with monitoring to ensure efficiency.

Obsolete Property – Includes either blighted or functionally obsolete properties as defined by the Obsolete Property Rehabilitation Act, P.A. 146 of 2000, as amended, as well as properties that are facilities as defined by Part 201 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1996, as amended. These are properties that are no longer able to function as they were originally

intended. Example: Silverdome in Detroit. Because a new football stadium was built for the Lions and there is no other professional football team in Detroit the Silverdome can no longer function as originally intended.

Public Act 381 – PA 381 is the legislation that authorizes the use of tax increment financing for the purpose of Brownfield Redevelopment.

PNA – Polynuclear aromatic hydrocarbon compounds

Quality Assurance Project Plan (QAPP) – It is created by the environmental consultant and includes objectives and monitoring design, procedures for generating data, and data quality measurements.

RBCA – Risk Based Corrective Action – A cleanup requirement, similar to that of the Superfund program, which applies to a site that has ever received an interim or final permit for the storage, treatment or disposal of RCRA hazardous wastes. The Corrective Action liability is attached to ownership of the site, regardless of whether or not the current owner is responsible for actions or releases that resulted in contamination of the site

Recognized Environmental Conditions (REC) – The presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, ground water, or surface water of the property. The term REC includes hazardous substances or petroleum products even under conditions in compliance with laws. The term is not intended to include de minimis conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies. Conditions determined to be de minimis are not recognized environmental conditions. In defining a standard of good commercial and customary practice for conducting an environmental site assessment of a parcel of property, the goal of the processes established by this practice is to identify recognized environmental conditions.

RCRA - Resource Conservation and Recovery Act – Federal law that defines hazardous wastes and regulates the management, storage, treatment and disposal of those wastes in the U.S.

Removal Action – environmental cleanup action that physically transfers contaminated media to another location.

RFP – Request for Proposal

Risk – the probability of injury, disease, or death under specific circumstances.

Risk Based Cleanup – Environmental remediation conducted until one of the following standards is met: 1) residual levels of contaminants are below the concentrations determined to pose a risk of harm to human health or the environment based on the type of site use (e.g. residential, commercial, industrial, recreational) or 2) engineering controls (e.g. fences, soil cap, vapor barriers, etc.) are installed to prevent unacceptable exposure (e.g. contact, inhalation or ingestion) to residual levels of contaminants that otherwise would exceed cleanup criteria for the site use.

SARA – Superfund Amendments and Reauthorization Act – Amended CERCLA in 1986 and stressed the importance of permanent remedies and innovative treatment technologies in cleaning up hazardous waste sites; required Superfund actions to consider the standards and requirements found in other State and Federal environmental laws and regulations; provided new enforcement authorities and settlement tools; increased State involvement in every phase of the Superfund program; increased the focus on human health problems posed by hazardous waste sites; encouraged greater citizen participation in making decisions on how sites should be cleaned up; and increased the size of the trust fund to \$8.5 billion. SARA also required EPA to revise the Hazard Ranking System (HRS) to ensure that it accurately assessed the relative degree of risk to human health and the environment posed by uncontrolled hazardous waste sites that may be placed on the National Priorities List (NPL).

Sampling and Analysis Plan (SAP) — This Plan details the procedures that will be used to conduct a Phase II site assessment.

SBT – Single Business Tax Credit (SBT) - This applies only if a developer is currently paying single business tax. The credit is 10% of the total investment into the project up to \$1,000,000 against your SBT liability and must be used within the five year period following the completion of the project. These credits can be used to cover demolition, construction, restoration, alteration, and improvement of the buildings or site of an eligible property. Like a TIF, a brownfield plan needs to be approved for this to be utilized. In addition, SBT is typically used to fill a gap that the TIF falls short of doing, and is only given once a project is completed.

SHWS – States Hazard Waste Sites

Site-Specific Brownfield Plan – Detailed plans that are prepared and adopted for specific redevelopment projects and include a description of the proposed land use and site redevelopment plan, environmental or other redevelopment issues of concern, a proposed plan for conducting eligible activities, the projected amount of private investment and resulting tax increment revenues, the anticipated cost of eligible activities, and the method and schedule by which tax increment financing revenues will be utilized to support such costs.

TIF – Tax Increment Financing –A TIF is for eligible activities related to contamination on a site. A TIF allows a developer to be reimbursed for the eligible environmental costs related to a project using the incremental increase in the taxes on the property resulting from the new development. A TIF can only be used if there is going to be an increase in property tax, otherwise there is nothing to capture to reimburse eligible activities. If a site is located within a core community as identified by the DEQ, the eligible expenses expand to cover demolition, infrastructure improvements, and site preparation. These are the incentives available but ultimately it comes down to local approval and they do not have to approve a TIF to reimburse for the costs of all of the eligible activities. If a developer decides to go after a TIF a brownfield plan will need to be created and approved at the Local, County and State level. Any expenses incurred before a brownfield plan is approved cannot be reimbursed.

Local TIF – Must be approved at local level only (LUG, WCBRA, BOC)

State TIF – must be approved at local and state (MEGA & MDEQ) level

TSE – Targeted Site Effort

Tax Increment Financing Revenues – Means the amount of ad valorem property taxes and specific taxes attributable to the application of the levy of all taxing jurisdictions upon the captured taxable value of each parcel of eligible property subject to a brownfield plan after redevelopment and including personal property located on that property.

Technical Assistance to Brownfield (TAB) Community Program – Provided through the Center for Hazardous Substance Research in order to support community outreach efforts

Treatment — destroying or converting the contaminants to less toxic forms. Treatment can either be in-situ (in the ground) or ex-situ (out of the ground)

UST – Underground Storage Tanks

VCP – (State) Voluntary clean-up program

VOC – Volatile organic compounds

RP Interplay – Voluntary Response Programs

WCBRA – Washtenaw County Brownfield Redevelopment Authority