

ELIGIBLE MICHIGAN ECONOMIC GROWTH AUTHORITY (MEGA) NON-ENVIRONMENTAL ACTIVITIES GUIDANCE ISSUE DATE DECEMBER 30, 2009_rev1

The Michigan Economic Growth Authority (MEGA) 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 MEGA Non-Environmental Activities (hereinafter referred to as “MEGA Eligible Activities”) under the [Brownfield Redevelopment Financing Act](#), Act 381 of 1996, as amended. This guidance is a supplemental MEDC document to the “Instructions for Preparing and Submitting Act 381 Work Plans Pursuant to the Brownfield Redevelopment Financing Act, 1996 PA 381, as amended” which was prepared jointly by the MEDC and the Michigan Department of Natural Resources and Environment (DNRE).

This document is intended to be used as a “road map” to guide the reader through the technical approaches and the basis used to evaluate projects proposed to the MEGA. This guidance will also facilitate consistent, accurate, efficient and timely completion of the project’s approval process for projects where the capture of state school taxes is desired. The MEDC Brownfield Redevelopment Program will evaluate MEGA Eligible Activities for each particular project taking into consideration all the facts and circumstances of such site under the authority of applicable laws, regulations and established policy. No provision of this guidance document should be construed to limit the MEGA’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 MEGA Eligible Activity, the MEGA 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 Review Criteria

This MEGA Eligible Activity is available on eligible properties statewide including those that are a [facility, blighted or functionally obsolete](#). Potentially MEGA Eligible Demolition Activities include Building Demolition and Site Demolition that is not a response activity. Include the size, type, location, and number of buildings, structures or improvements to be demolished, and if applicable recycling/disposal practices. This includes both Building Demolition (interior and partial/whole building) and Site Demolition as follows:

Building Demolition (*for the interior of a building or for the partial/whole building*) – Activities include but are not limited to: a Pre-Demolition Audit or Survey; deconstruction or select demolition of building elements (products or materials) to be reused or recycled; demolishing of the 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 at the project; 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 limited to: the removal of abandoned utilities (storm sewers, water mains, and sanitary sewer mains); 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 MEGA.

Lead and Asbestos Abatement Review Criteria

These MEGA Eligible Activities are available on eligible properties statewide including those that are a [facility, blighted or functionally obsolete](#). Potentially MEGA Eligible Lead and/or Asbestos Abatement Activities may be allowed during Building Demolition activities or as a requirement to rehabilitating 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 MEGA Eligible Lead and/or Asbestos Abatement Activities the assessing/surveying, sampling/reporting and abatement work are considered allowable activities.

Infrastructure Improvements Review Criteria

(Only available to Qualified Local Governmental Units)

This MEGA Eligible Activity is available on eligible properties in a qualified local governmental unit (QLGU, see [revised QLGU list](#) adopted by the State Tax Commission on February 9, 2010), eligible properties include those that are a [facility, blighted or functionally obsolete](#). Describe why Infrastructure Improvements are necessary for the redevelopment project. Provide maps showing the location of the public Infrastructure Improvements relative to the project. As appropriate, identify on a per unit cost basis the improvements and describe the size and scale of the project in terms of the linear feet basis, the square footage or other appropriate measures.

Upon a detailed evaluation of any proposed Infrastructure Improvements, the MEGA will make a determination of eligibility for state school tax capture so long as the Infrastructure Improvements are publicly owned and maintained, support the project and also serve others/public. Therefore, Infrastructure Improvements can also extend into private property so long as there is a dedicated easement or the area of Infrastructure Improvements is deeded to the governing body. Potentially eligible Infrastructure Improvements include but are not limited to: roads; curbs and gutters; storm sewers; water mains; sanitary sewer mains; sidewalks; bike paths; lighting; signage; landscaping; marinas; boardwalks; park/seating areas; publically owned parking decks and lots; rail lines; bridges, and; other similar or related structure or improvement at the discretion of the MEDC and approval by the MEGA so long as they are publicly owned and maintained, support the project and also serve others/public.

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. Unless approved as outlined above, anything located within the property boundary that is not publicly owned and maintained, and is not in a public right of way or easement, is also not a MEGA Eligible Activity for use of the state school tax capture under the Act 381 Work Plan. All of these items may be considered investments made within the property boundary and if appropriate may be requested as eligible investments covered by the Brownfield Michigan Business Tax (MBT) Credit.

Site Preparation Review Criteria

(Only available to Qualified Local Governmental Units)

This MEGA Eligible Activity is available on eligible properties in a qualified local governmental unit (QLGU, see [revised QLGU list](#) adopted by the State Tax Commission on February 9, 2010), eligible properties include those that are a [facility](#), [blighted or functionally obsolete](#). Under Act 381, as amended, the Site Preparation activity is defined as: “site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101”.

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, the square footage or other appropriate measures. Potentially MEGA Eligible Site Preparation Activities are as follows:

| Site Preparation Activity <i>(potentially allowable)</i> | Guidance |
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| Staking (related to MEGA Eligible Activities) | Prior to the commencement of some 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, or; for the location, alignment and elevation of Foundations, Structures, Alternative Green Stormwater Management Practices, Retaining Walls, Temporary Sheeting/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 the licensed Engineer, geotechnical engineering may be allowed which may include investigating existing subsurface conditions and materials; determining their physical/mechanical and chemical properties that are relevant to the project considered, 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 | At 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 | At some projects temporary construction access and/or roads may be allowed and may include clearing the work area of all vegetation (SEE: Clearing and Grubbing), 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 of and for the main use, 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. |

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| <p>Temporary Erosion Control</p> | <p>Temporary construction site erosion & sediment control practices intended to minimize the amount of soil and other material carried by stormwater runoff from the site of a land development activity 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 but are not limited to 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.</p> |
| <p>Temporary Site Control (i.e. security, fencing, lighting)</p> | <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, guard rails, signage, or lighting.</p> |
| <p>Excavation for Unstable Material (Urban or Historic Fill)</p> | <p>The removal of the unstable material may be allowed when a site is found to consist of unstable material which will, in the opinion of a licensed Design Engineer and with appropriate testing/data to support said opinion, not provide adequate structural support. 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.</p> <p>Urban or Historic Fill material means non-indigenous material, deposited or disposed of which is a deterrent/disincentive to redevelopment of the site, and which may include, existing basements/below grade structures/foundations (if not part of the MEGA Eligible Activity “Demolition”), construction debris, dredge spoils, and demolition debris. Urban or Historic Fill material does not include any material which could be a part of or could be included in an Act 381 Work Plan as a DNRE Eligible Activity. In addition, Urban or Historic Fill material does not include a municipal solid waste disposal site.</p> |
| <p>Excavation to Support Underground Parking (in Downtown Areas)</p> | <p>In downtown areas where an increase in urban density is desired, the removal of soil or fill material below the average grade of the surrounding land necessary for the construction of underground parking may be allowed to off-set any increase in cost to have the underground parking so long as it is a <u>primary</u> alternative to surface parking. This task does not include any costs associated with the physical construction of the underground parking structure. For other excavation work needed at the project site, SEE - Excavation for Unstable Material outlined above as to its eligibility.</p> |
| <p>Foundation Work to Address Special Soil Concerns</p> | <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 Design Engineer and shall be supported with appropriate testing/data to evidence said opinion. 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, document the cost gap by providing the cost of constructing the foundation on a similar nearby Greenfield site containing indigenous soil material and the selected Brownfield site.</p> |
| <p>Fill</p> | <p>Where: (1) the removal of the unstable material has occurred as outlined above (SEE – Excavation for Unstable Material); (2) an open excavation or void below grade has been created to remove the foundation or basement of a building as a part of the MEGA Eligible Activity “Demolition”, or; (3) any below grade void created as a result of any Geotechnical Engineering task as outlined above, the addition of soils (or replacement of approved material) shall be allowed which includes providing; placement and the compaction of approved materials, and; shall be performed by any reasonable method approved by the licensed Design Engineer to achieve the required soil strength (density).</p> |

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| Dewatering (related to MEGA Eligible Activities) | 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, or Fill tasks as outlined above. |
| Land Balancing | 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. |
| Grading | 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. |
| Relocation of Existing 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 need to 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; excavating for the utilities removal; excavating and the replacement of that utility; providing the backfill material for the void created from the original utilities removal; providing the backfill material around the relocated utility; placement of the backfill material, and/or; the compaction of the backfill material as outlined below (<i>SEE - Compaction & Sub-base Preparation</i>). |
| Compaction & Sub-base Preparation (related to MEGA 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 the licensed Engineer to achieve the required soil strength (density) as is desired under roads, utilities or structures. |
| Alternative Green Stormwater Management Practices | On the municipal or neighborhood scale, Green stormwater management practices seeks to reduce or divert stormwater from the sewer system and direct it to areas where it can be infiltrated, reused or evapotranspired. The use of these three Green stormwater management practices may be allowed when appropriate design information and support, in the opinion of a licensed Design Engineer, is provided. Infiltration activities may include installing a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but 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 road side channels designed for conveyance and pollutant removal only. Underground retention systems may be considered so long as they are integrated into an infiltration system design and are used in downtown areas where an increase in urban density is desired. Stormwater reuse may include harvesting rainwater in cisterns (including underground systems), rain barrels, or other devices to reduce potable water used for landscape irrigation, fire suppression, toilet and urinal flushing, and custodial uses. Evapotranspiration techniques to return water to the atmosphere either through evaporation or by plants may also be considered. Reimbursement with school taxes will be allowed only for the <u>incremental increase</u> in costs to accommodate Green stormwater management practices. In order to be considered for this activity, document the cost gap by providing the cost of constructing a standard stormwater management system for the project on a similar Greenfield site and the selected Brownfield site with Green stormwater management practices. |
| 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 Design Engineer. |
| Retaining Walls (in Downtown Areas) | Typically in downtown areas where an increase in urban density is desired; structures that holds back the earth, stabilize soil from down-slope movement or erosion and provides support for vertical or near-vertical grade changes may be considered. The use of retaining walls may be allowed when it can be demonstrated by a licensed Design Engineer that their use will substantially reduce the amount of grading or if due to site specific conditions the retaining wall will allow the site to raise the community's urban density. |

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| 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 (covered under separate Eligible Activity guidance) Temporary Sheeting/Shoring may be allowed to protect adjacent buildings, roads or utilities. |
| Soft Costs | So long as they are directly associated with Site Preparation activities (including engineering and design), legal and professional fees and costs. |
| Specific and Unique Activities | MEGA may consider Site Preparation activities that demonstrate a specific and unique need due to the site specific Brownfield conditions which are necessary for the successful redevelopment of the Eligible Property. |
| Site Preparation Task <i>(not allowable)</i> | Guidance |
| Topsoil and Seeding | Not allowable unless a part of Alternative Green Stormwater Management Practices as outlined above. |
| Landscaping | Not allowable unless a part of Alternative Green Stormwater Management Practices as outlined above. |
| Underground Sprinkling System (irrigation) | Not allowable unless a part of Alternative Green Stormwater Management Practices as outlined above. |
| Site Lighting | Not allowable unless a part of Temporary Site Control as outlined above. |
| 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. |