



CASCADE CHARTER TOWNSHIP

2865 Thornhills SE Grand Rapids, Michigan 49546-7140

NOTICE OF PUBLIC MEETING VIA VIDEO CONFERENCE

In accordance with Executive Order 2020-154, which declares that public bodies subject to the Open Meetings Act can use telephone and/or video conferencing technology to meet and conduct business during the ongoing COVID-19 pandemic, the Cascade Charter Township Board of Trustees will conduct a regular meeting on Wednesday, September 9, 2020 at 7pm utilizing the Zoom video conferencing platform, for the purpose of conducting official business while complying with the Governor's "Stay Safe, Stay Home" executive orders and the Michigan Department of Health and Human Services recommendations designed to help prevent the spread of COVID-19. For up-to-date information regarding the ongoing public health crisis, please visit:

<http://www.Michigan.gov/coronavirus> or <http://www.CDC.gov/coronavirus>

INSTRUCTIONS FOR ACCESS AND PARTICIPATION

Meeting ID: 884 4814 6206

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/88448146206>

iPhone one-tap :

US: +13017158592,,88448146206#

or

+13126266799,,88448146206#

Telephone:

(for higher quality, dial a number based on your current location):

+1 312 626 6799

or +1 929 205 6099

or +1 346 248 7799

or +1 669 900 6833

or +1 253 215 8782

or +1 301 715 8592

International numbers available: <https://us02web.zoom.us/u/kd4R3V515W>

****Members of the public with disabilities may utilize the Michigan Relay System (7-1-1) to participate in the meeting. If other aids or services are needed for individuals with disabilities please contact the Township Deputy Clerk, Padley Gallagher, at pgallagher@cascadetwp.com or 616-949-1500 at least 24 hours prior to the meeting****

PUBLIC PARTICIPATION

Members of the public will be able to listen to and view all discussion by the Township Board and all official materials for this meeting prepared for the Township Board will be included in the meeting packet and available to the public on the Township website www.cascadetwp.com Individuals will be permitted to speak during public comment periods in accordance with the Township Remote Public Meeting Procedure Policy.

If you would like to contact the Cascade Township Board about any matter, on the agenda or otherwise, please do so via email at the addresses below a minimum of 8 hours prior to the meeting. If you wish comments to be read into the public record during the public comment period, you must indicate so and draft communication that can be read in the allotted 3-minute timeframe.

Supervisor Rob Beahan: rbeahan@cascadetwp.com

Clerk Sue Slater: sslater@cascadetwp.com

Treasurer Ken Peirce: kpeirce@cascadetwp.com

Trustee Jim Koessel: jkoessel@cascadetwp.com

Trustee Jack Lewis: jlewis@cascadetwp.com

Trustee Tom McDonald: tmcdonald@cascadetwp.com

Trustee John Shipley: jshipley@cascadetwp.com

Manager Ben Swayze: bswayze@cascadetwp.com

AGENDA
CASCADE CHARTER TOWNSHIP
REGULAR BOARD MEETING
Wednesday, September 9, 2020
7:00 P.M.

Expected Meeting Procedures

1. During public comments you may speak on any item not noted on the agenda for a public hearing.
2. Please limit comments to 3 minutes per person and the Board may or may not choose to respond.
3. Please limit your comments to a specific issue.
4. Please turn OFF cellular phones.

- Article 1. Call to Order, Roll Call**
- Article 2. Pledge of Allegiance to the Flag**
- Article 3. Approval of Agenda**
- Article 4. Presentations**
- Article 5. Public Comments-Anything on the Agenda not scheduled for a public hearing. (limit comments to 3 minutes)**
- Article 6. Approval of Consent Agenda**
- a. Receive and File Minutes
 1. Township Board Meeting Minutes – August 26, 2020
 - b. Receive and File Reports
 1. Inspectors Report – August 2020
 2. AT&T Franchise Video Report
 3. Treasurer’s Report – February 2020
 - c. Receive and File Communications
 1. Comcast
- Article 7. Financial Actions**
- Article 8. Unfinished Business**
- 048-2020 Consider Resolution of “Declaration of Intent to Make Public Improvements; Tentative Designation of the Special Assessment District; Notice of Public Hearing” For Thornapple River Special Assessment District No. 1. (roll call)**
- 049-2020 Consider Resolution of “Declaration of Intent to Make Public Improvements; Tentative Designation of the Special Assessment District; Notice of Public Hearing” For Laraway Lake Special Assessment District No. 1. (roll call)**
- Article 9. New Business**
- 050-2020 Consider Appointments to Various Boards and Commissions. (roll call)**

**051-2020 Consider Approval of Brownfield Redevelopment Authority
– Consulting Proposal. (roll call)**

- Article 11. Public Comments – Any comments...whether it is on the Agenda or not.
(limit comments to 3 minutes)**
- Article 12. Manager Comments**
- Article 13. Board Member Comments**
- Article 14. Adjournment**

**MINUTES OF THE
CASCADE CHARTER TOWNSHIP
REGULAR BOARD MEETING**

Wednesday, August 26, 2020
7:00 P.M.

- Article 1.** Supervisor Beahan called the meeting to order.
Present: Supervisor Beahan, Clerk Slater, Treasurer Peirce, Trustees Koessel, McDonald, Lewis, and Shipley.
Absent: None
Also Present: Assistant Township Manager Fast and Community Development Manager Peterson.
- Article 2.** Supervisor Beahan led the Pledge of Allegiance.
- Article 3. Approval of Agenda**
Motion was made by Trustee Shipley and supported by Trustee Koessel to approve the Agenda as presented. Motion carried unanimously.
- Article 4. Presentations**
- Article 5. Public Comments-Anything on the Agenda not scheduled for a public hearing. (limit comments to 3 minutes)**
- Article 6. Approval of Consent Agenda**
- a. Receive and File Minutes
1. ~~Township Board Meeting Minutes – June 10, 2020~~
 2. ~~Township Board Meeting Minutes – June 24, 2020~~
 3. ~~Township Board Meeting Minutes – July 8, 2020~~
 4. ~~Township Board Meeting Minutes – July 22, 2020~~
 5. ~~Township Board Meeting Minutes – August 12, 2020~~
- b. Receive and File Education Requests
1. Stephanie Fast – Grand Valley State University
- Motion was made by Trustee Shipley and supported by Trustee Lewis to approve the Consent Agenda as presented. Motion carried unanimously.
- Article 7. Financial Actions**
- Article 8. Unfinished Business**
- 044-2020 Consider Approval of Honeysuckle PUD.**
Motion was made by Trustee McDonald and supported by Trustee Koessel to remove item 044-2020 from the table.
- Motion was made for approval by Trustee Lewis and Supported by Trustee Koessel. Motion carried unanimously by roll call vote.
- Article 9. New Business**
- 045-2020 Consider Resolution for Street Light Request at Bridgewater Dr. & Hillsboro Ave.**
Motion was made for approval by Trustee Shipley and Supported by Trustee Lewis. Motion carried unanimously by roll call vote.

046-2020 Consider Approval of Golden Valley Phase Two.
Motion was made for approval by Trustee Shipley and Supported by Trustee Lewis. Motion carried unanimously by roll call vote.

047-2020 Consider Approval of Agreement for the Renovation of 5920 Tahoe Dr.
Motion was made for approval by Treasurer Peirce and Supported by Trustee Koessel. Motion carried with a vote of 6 to 1. In favor: Supervisor Beahan, Clerk Slater, Treasurer Peirce, and Trustees McDonald, Koessel, and Lewis. Opposed: Trustee Shipley.

Article 11. Public Comments – Any comments...whether it is on the Agenda or not. (limit comments to 3 minutes)

Article 12. Manager Comments

Manager Swayze addressed the board with the following comments:

- The Cemetery project is near completion, still waiting for final completion.
- The Schoolhouse project is also near completion.
- The Laraway Lake project is complete once the final bill is paid.
- The Pathway Project is ongoing.
- The Public Input Sessions for the lower village planning plan are on August 27 in the parking lot at Tassel Park.

Article 13. Board Member Comments

Trustee Shipley made the following comment:

- Expressed his disappointment in the approval of item 047-2020 in regards to use of taxpayer money.

Trustee Koessel made the following comment:

- Addressed the board about the overall lower cost of the renovation compared to the initial buildings that were reviewed, and the money that is being used has been saved specifically for a new Township Hall.

Trustee McDonald made the following comment:

- Agreed with Trustee Koessel's view on item 047-2020.
- Made a request for the Cascade River Association to do a presentation for the board regarding the Special Assessment District fees and plan.

Supervisor Beahan made the following comment:

- Asked that people come to the public input session for the Lower Village Plan.

Article 14. Adjournment

Motion was made by Treasurer Peirce and supported by Clerk Slater to adjourn. Motion carried unanimously.

Meeting adjourned at 7:54 p.m.

Respectfully submitted,

Padley Gallagher
Deputy Clerk

Approved by:

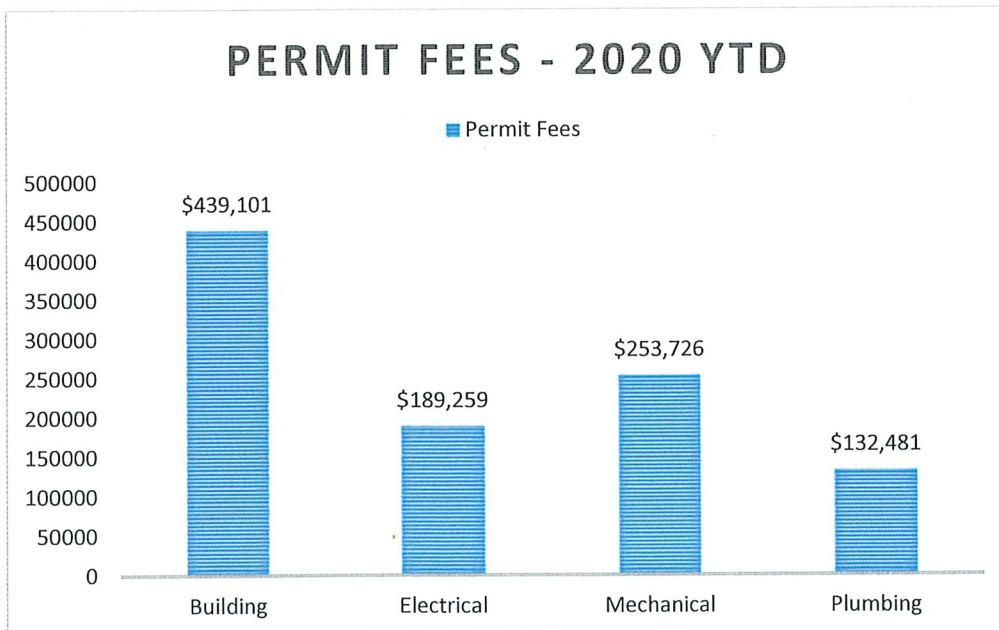
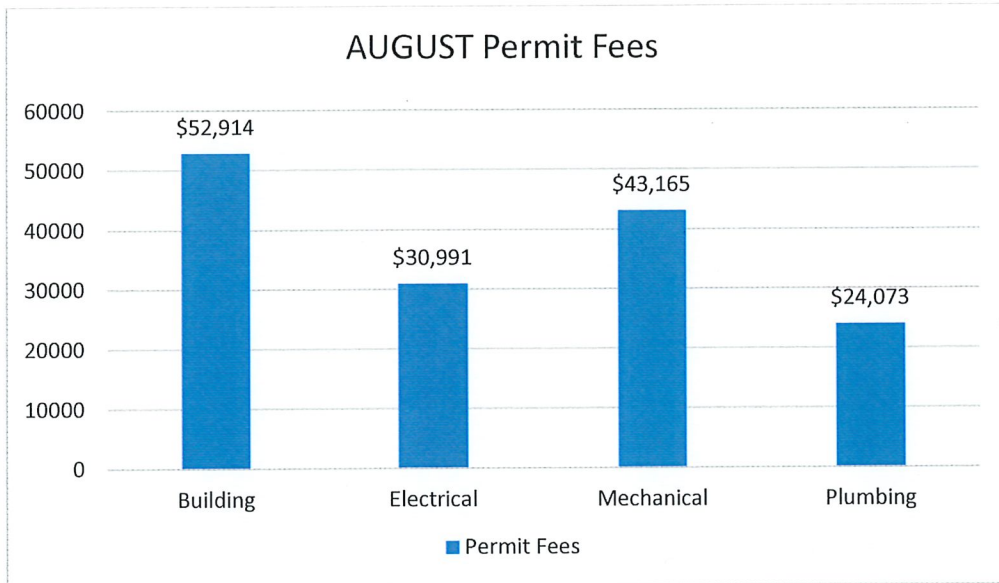
Susan B. Slater, Clerk

DRAFT

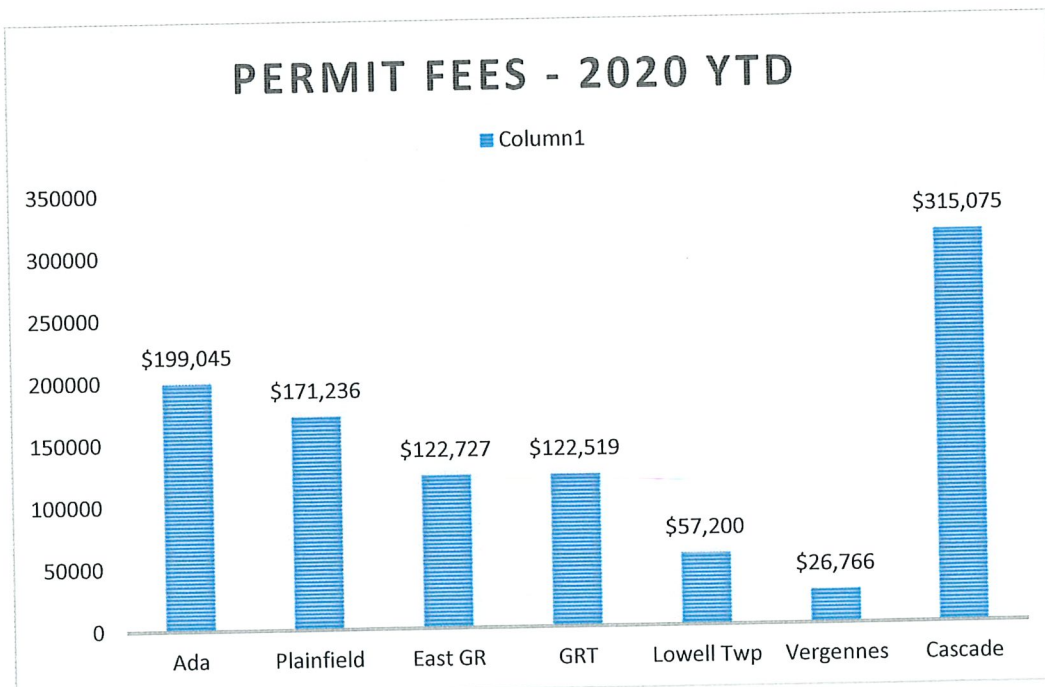
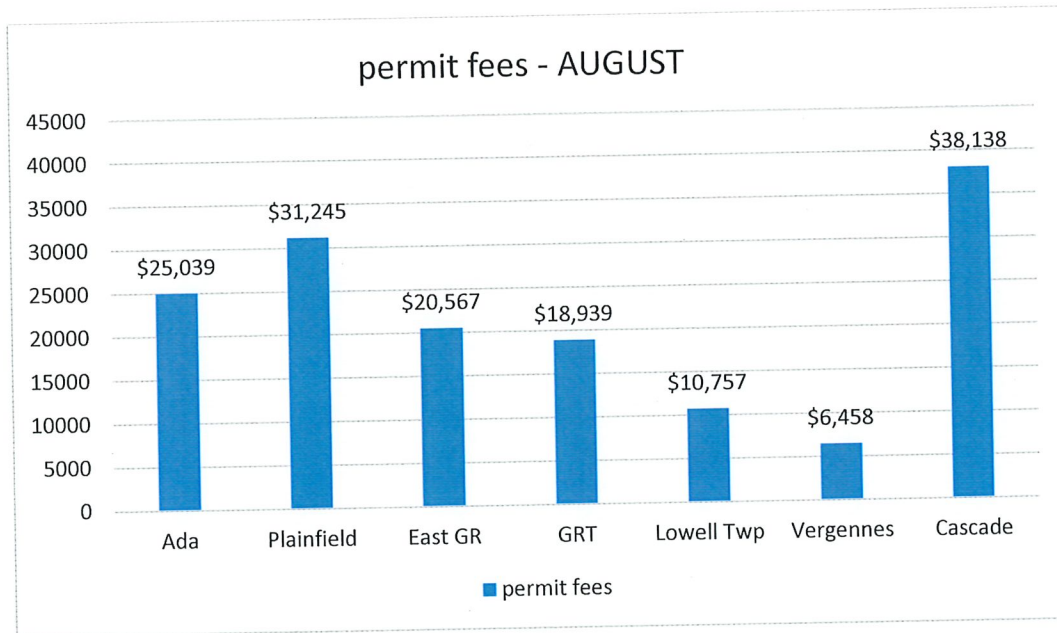
Cascade Inspection Services

AUGUST 2020

Permit Fees by Type



Permit Fees by Municipality



Township	#of Per Building	#of Per Electrical	# of Per Mechanical	# of Per Plumbing	Total Permits	Total Fees
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PREV YTD TOTAL	801	\$386,187.00	1042	\$158,268.00	1793	\$210,561.25	834	\$108,408.00	4470	\$863,424.25
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AUGUST										
Cascade	58	\$21,494.00	37	\$5,568.00	66	\$7,714.75	28	\$3,361.00	189	\$38,137.75
Lowell Twp	16	\$6,644.00	11	\$1,828.00	10	\$1,335.00	5	\$950.00	42	\$10,757.00
Ada	31	\$8,961.00	27	\$4,413.00	48	\$6,655.00	23	\$5,010.00	129	\$25,039.00
Vergennes			11	\$2,795.00	13	\$2,055.00	8	\$1,608.00	32	\$6,458.00
GR Twp	48	\$8,645.00	25	\$3,000.00	49	\$4,500.00	24	\$2,794.00	146	\$18,939.00
EGR	36	\$7,170.00	34	\$4,015.00	54	\$6,065.00	24	\$3,317.00	148	\$20,567.00
Plainfield			54	\$9,372.00	112	\$14,839.75	71	\$7,033.00	237	\$31,244.75
									0	\$0.00

MONTH TOTAL	189	\$ 52,914.00	199	\$ 30,991.00	352	\$ 43,164.50	183	\$ 24,073.00	923	\$151,142.50
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2020 YTD	990	\$ 439,101.00	1241	\$ 189,259.00	2145	\$ 253,725.75	1017	\$ 132,481.00	5393	\$ 1,014,566.75
TOTAL -2019	1675	\$ 631,143.50	2288	\$ 347,205.00	3478	\$ 406,781.95	1469	\$ 206,608.00	8910	\$ 1,591,688.45
TOTAL -2018	1705	\$ 920,876.00	2116	\$ 380,754.00	3585	\$ 456,603.00	1654	\$ 238,664.00	9060	\$ 1,996,897.00
TOTAL-2017	1758	\$ 753,389.00	2210	\$ 376,979.00	3273	\$ 412,867.25	1485	\$ 219,324.00	8726	\$ 1,762,559.25
TOTAL-2016	1475	\$529,552.24	1992	\$310,463.00	3217	\$383,718.00	1404	\$190,762.00	8088	\$ 1,414,495.24
TOTAL-2015	1510	\$ 665,025.51	1948	\$ 327,865.00	3070	\$ 385,822.30	1361	\$ 216,089.00	7889	\$ 1,594,801.81
TOTAL-2014	1354	\$ 615,191.80	1780	\$ 297,971.00	2860	\$ 359,989.90	1257	\$ 196,553.00	7251	\$ 1,469,705.70
TOTAL-2013	1241	\$644,712.00	1667	\$288,442.06	2583	\$334,045.70	969	\$142,474.00	6460	\$ 1,409,673.76
TOTAL-2012	1,122	\$511,272.00	1,349	\$188,766.99	2,134	\$247,625.30	835	\$118,335.00	5,440	\$ 1,065,999.29
TOTAL-2011	949	\$410,550.75	990	\$148,549.50	1585	\$189,180.10	753	\$111,023.00	4277	\$ 859,303.35
TOTAL-2010	850	\$309,779.00	1330	\$162,994.00	1644	\$188,927.25	625	\$94,790.00	4449	\$ 756,490.25
TOTAL-2009	712	\$222,039.00	875	\$125,848.00	1313	\$149,101.75	554	\$74,397.00	3463	\$ 571,382.75
TOTAL-2008	848	\$582,100.75	1043	\$147,674.00	1348	\$164,271.30	697	\$91,695.00	3933	\$ 951,266.55
TOTAL-2007	1032	\$336,749.55	1069	\$137,857.00	1447	\$151,002.60	778	\$98,270.00	4326	\$ 723,879.15
TOTAL-2006	1181	\$481,673.30	1547	\$215,121.00	2147	\$243,076.90	1243	\$162,020.00	5173	\$ 940,523.41
TOTAL-2005	1032	\$419,355.30	1369	\$191,694.00	1874	\$211,234.15	1111	\$144,926.00	5386	\$ 967,209.45

CASCADE CONSOLIDATED FEES

YEAR 2020

MONTH	Building		Electrical	Mechanical	Plumbing	TOTAL
	Comm.	Residential				
JANUARY	\$2,741.00	\$3,852.00	\$4,500.00	\$8,380.50	\$3,568.00	\$23,041.50
FEBRUARY	\$16,296.00	\$6,013.00	\$5,977.00	\$6,090.00	\$3,560.00	\$37,936.00
MARCH	\$1,468.00	\$2,711.00	\$4,133.00	\$4,420.00	\$2,770.00	\$15,502.00
APRIL	\$683.00	\$3,027.00	\$1,054.00	\$2,660.00	\$865.00	\$8,289.00
MAY	\$74,540.00	\$7,217.00	\$4,827.00	\$5,340.00	\$1,948.00	\$93,872.00
JUNE	\$2,480.00	\$9,883.00	\$8,021.00	\$9,200.00	\$3,714.00	\$33,298.00
JULY	\$33,689.00	\$5,984.00	\$6,959.00	\$11,377.75	\$7,009.00	\$64,998.75
AUGUST	\$5,974.00	\$15,520.00	\$5,568.00	\$7,714.75	\$3,361.00	\$38,137.75
SEPTEMBER						
OCTOBER						
NOVEMBER						
DECEMBER						
YEAR END TOTAL	\$137,871.00	\$54,187.00	\$41,039.00	\$55,183.00	\$26,795.00	\$315,075.00
PERMIT # FOR MONTH	9	49	37	66	28	189
PREV PERMIT TOTAL	52	192	233	406	184	1067
PERMIT TOTAL FOR YR	61	241	270	472	212	1256
YEAR TO DATE	2020	\$315,075.00				
YEAR TO DATE	2019	\$273,902.25				
OVER	\$41,172.75					

CASCADE SINGLE FAMILY HOMES

	AUGUST	YTD 2020	2019	2018	2017
Number of Permits					
New Residential Homes	11	23	38	43	57
VALUE - RESIDENTIAL	\$ 5,828,727.00	\$ 21,584,498.00	\$ 18,187,545.00	\$ 28,327,352.00	\$ 32,980,308.00

Cascade Twp -Permit Report by Category/ Fe

8/1/2020 12:00:00 to 8/31/2020 12:00:00

Permit	Applicant	Address	Issue Date	Project Value	Permit Fee
Res. Single Family					
PB20000807	JAHNKE BUILDERS - S'6865	GOLDEN VIEW DR SE	08/07/2020	450,000	821.00
PB20000835	LOWN HOMES LLC	2757 MEADOW CROSSING DR SE	08/11/2020	900,000	1,234.00
PB20000851	EASTBROOK HOMES II	5810 THORNAPPLE RIVER DR SE	08/03/2020	226,000	635.00
PB20000884	ENGELSMA HOMES LI	1975 STEKETEE WOODS LN SE	08/13/2020	800,000	1,297.00
PB20000930	LOWN HOMES LLC	2769 MEADOW CROSSING DR SE	08/05/2020	700,000	1,111.00
PB20000997	HALLAND HOMES LLC	1740 PRESCOTT POINT CT SE	08/25/2020	800,000	1,007.00
PB20001005	EASTBROOK HOMES II	6849 GOLDEN VIEW DR SE	08/24/2020	343,267	883.00
PB20001006	J PETERSON HOMES	9478 GRAND RIVER DR SE	08/17/2020	450,000	651.00
PB20001009	DEHAAN BUILDERS IN	6348 LAMPPOST CIR SE	08/17/2020	400,000	869.00
PB20001010	DEHAAN BUILDERS IN	6344 LAMPPOST CIR SE	08/17/2020	400,000	785.00
PB20001011	JTB HOMES LLC	4623 HARBOR VIEW DR SE	08/20/2020	359,460	915.00
				5,828,727	10,208.00
11	Permits	Value Total		5,828,727	10,208



Yvette Collins
Director
AT&T Michigan
221 N. Washington Square
Lansing, MI 49833
Office: (517) 334 3708
Fax: (517) 334-3429

July 31, 2020

Ms. Lisa Felice
Acting Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, MI 48917

Dear Ms. Felice

Michigan Bell Telephone Company, doing business as AT&T Michigan (“AT&T”), submits its Thirteenth Annual Video Report to the Michigan Public Service Commission (“MPSC”) and franchising entities in the State of Michigan regarding its deployment progress, as required by Michigan’s Uniform Video Services Local Franchise Act (2006 Public Act 480, as amended) or “Video Act”. AT&T is separately providing a copy to each Clerk in the Michigan Communities where AT&T has launched its U-verseSM TV service.

If you have any questions, please contact me on (517) 334-3708.

Sincerely,

A handwritten signature in black ink, appearing to read 'Yvette Collins', is written over a light blue circular stamp.

Yvette Collins
Director – External/Regulatory Affairs
AT&T Michigan

Enclosures

cc: Clerks in Franchised Communities
Mr. Ryan McAnany, Michigan Public Service Commission Staff



AT&T Michigan

Annual Video Report

July 31, 2020

STATUS OF AT&T'S VIDEO SERVICE DEPLOYMENT IN MICHIGAN

Michigan Bell Telephone Company, doing business as AT&T Michigan ("AT&T"), submits its thirteenth Annual Video Report to the Michigan Public Service Commission ("MPSC" or "Commission") and franchising entities in the State of Michigan regarding its deployment progress, as required by Michigan's Uniform Video Services Local Franchise Act (2006 Public Act 480, as amended) or "Video Act".¹

On January 1, 2007, Michigan's Video Act became effective. AT&T launched its Internet Protocol TV ("IPTV") service called AT&T U-verse® TV on May 21, 2007 in parts of over 50 communities in the Detroit and Ann Arbor areas. AT&T has now obtained franchise agreements and provides its U-verse TV service in 341 communities.

Section 9(2) of the Video Act provides that it is a defense to an alleged violation of Section 9(1) of the Video Act if a provider has met either of two conditions: (1) within 3 years at least 25% of households with access to the provider's video service are low-income households; or (2) within 6 years and from that point forward at least 30% of households with access to the provider's video service are low-income households. AT&T has met both conditions.²

With respect to Section 9(3) of the Video Act: (1) AT&T provided access to its video service to over 50% of the households in its telecommunications service area within 6 years of the date it began providing video service, and (2) AT&T Michigan no longer has more than 1,000,000 telecommunications access lines in the state.³

AT&T recently completed its thirteenth year of providing video service in the state. AT&T does not deny access to service to any group of potential residential subscribers because of race or income.

AT&T announced in March of 2020 that requests for new U-verse TV orders will no longer be accepted. Existing U-verse TV customers' service will not be impacted.

¹ See Section 9(4) of the Video Act: "Each provider shall file an annual report with the franchising entity and the commission regarding the progress that has been made toward compliance..."

² See Section 9 (2) of the Video Act: "It is a defense to an alleged violation of subsection (1) if the provider has met either of the following conditions: (a) Within 3 years of the date it began providing video service under this act, at least 25% of households with access to the provider's video service are low-income households. (b) Within 5 years of the date it began providing video service under this act and from that point forward, at least 30% of the households with access to the provider's video service are low-income households."

³ "If a video service provider is using telecommunication facilities to provide video services and has more than 1,000,000 telecommunication access lines in this state, the provider shall provide access to its video service to a number of households equal to at least 25% of the households in the provider's telecommunication service area in the state within 3 years of the date it began providing video service under this act and to a number not less than 50% of these households within 6 years. A video service provider is not required to meet the 50% requirement in this subsection until 2 years after at least 30% of the households with access to the provider's video service subscribe to the service for 6 consecutive months."

AT&T'S INVESTMENT IN MICHIGAN'S WORKFORCE AND INFRASTRUCTURE

AT&T invests billions to build the advanced networks that create jobs and fuel economic growth in Michigan. From 2017 through 2019, AT&T invested more than \$1.5 billion in its Michigan wireless and wireline networks. AT&T provides customer service to all of its customers via call centers, in-person locations and 24/7 online.

AT&T'S U-verse® TV PRODUCT

For current U-verse customers, the product provides both live video programming and on-demand and interactive content.

U-verse TV includes:

- Ability to access more than 234 IPTV National HD channels.
- Ability to record up to 4 shows at once with Total Home DVR.
- Ability to stream shows virtually anywhere customers go, on their smart devices.
- AT&T's deployment of Public, Educational, and Government (PEG) continues with communities who have requested AT&T to carry their PEG programming on U-verse TV.
- Online 24/7 customer service and technical support available at <https://www.att.com/support/topic/u-verse-tv/>

TREASURER'S DEPARTMENT

CASCADE CHARTER TOWNSHIP

TAX ACCOUNTS

FEBRUARY 2020

BANK BALANCES

BANK	AMOUNT
<u>FLAGSTAR BANK</u>	
TAX CHECKING	\$509,863.62
<u>FLAGSTAR BANK</u>	
DELINQUENT TAX	\$7,130.35
<u>FLAGSTAR BANK</u>	
TAX WIRE ACCT	\$13,377.85
GRAND TOTAL	<u><u>\$530,371.82</u></u>

TOWNSHIP BALANCES

REGISTER	AMOUNT
<u>FLAGSTAR BANK</u>	
TAX CHECKING	\$509,863.62
<u>FLAGSTAR BANK</u>	
DELINQUENT TAX	\$7,130.35
<u>FLAGSTAR BANK</u>	
TAX WIRE ACCT	\$13,377.85
GRAND TOTAL	<u><u>\$530,371.82</u></u>

Oxana Sourine 6/4/2020

Submitted by
OXANA SOURINE
DEPUTY TREASURER

Date

Kenneth B. Peirce 5/26/20

Reviewed by
KENNETH B. PEIRCE
TREASURER

Date

FUND	INSTITUTION	DEMAND DEPOSIT		CDs			SECURITIES			TOTALS	
		\$	%	\$	%	DATE	\$	%	DATE	\$	%
101 GENERAL FUND	FLAGSTAR	1,701,956.76	0.80								
	FLAGSTAR MMA	511,159.02	1.30								
	KENT CTY POOL	1,164,622.54	2.11								
	MI CLASS	477,980.23	1.72								
	MERCANTILE			535,196.94	2.45	7/26/2022					
	COMERICA BANK			546,167.21	1.80	3/23/2021					
	HORIZON BANK			512,673.60	2.80	3/9/2020					
	GRAND RIVER			515,629.42	2.75	12/19/2020					
	CONSUMERS CU			262,175.00	2.00	1/8/2021					
	LMCU			1,000,000.00	2.65	6/2/2020					
	MACATAWA			262,944.89	2.80	5/21/2020					
	CIBC/ fna PRIVATE			500,000.00	1.50	3/15/2020					
	COMERICA SECUR./WF						500,000.00	2.80	8/17/2020		
	COMERICA SECUR						500,000.00	1.75	2/28/2023		
TOTAL GENERAL FUND		3,855,718.55	1.38	4,134,787.06	2.37		1,000,000.00	2.28		8,990,505.61	1.93
151 CEMETERY	LMCU	114,929.33	0.50	-						114,929.33	0.50
206 FIRE FUND	FLAGSTAR	1,308,671.82	1.30								
	MI CLASS	1,150,799.07	1.80								
	COM CHOICE CU			261,290.23	3.05	4/18/2021					
	LEVEL ONE			272,368.49	2.00	11/21/2020					
	ADVENTURE CU			517,061.41	1.95	2/27/2023					
	COMERICA SECUR/JPM						500,000.00	2.00	9/30/2022		
TOTAL FIRE FUND		2,459,470.89	1.53	1,050,720.13	2.24		500,000.00	2.00		4,010,191.02	1.78
207 POLICE FUND	FLAGSTAR	418,188.91	1.30								
	FLAGSTAR			400,000.00	1.50	8/25/2020					
	NORTHPOINTE BANK			264,005.12	2.30	5/9/2020					
	CIBC/ fna PRIVATE			788,499.63	1.95	3/25/2022					
	FIRST COMMUNITY BANK			250,000.00	1.00	3/13/2020					
TOTAL POLICE FUND		418,188.91	1.30	1,702,504.75	1.76					2,120,693.66	1.67
208 HAZMAT FUND	LMCU	32,659.87	0.35							32,659.87	0.35
209 OPEN SPACE	CHEMICAL	224,455.87	0.50								
	MI CLASS	374,744.64	1.80								
	CHEMICAL			500,000.00	1.62	4/17/2020					
TOTAL OPEN SPACE		599,200.51	1.31	500,000.00	1.62					1,099,200.51	1.45
DAM REPAIR	MI CLASS	400,345.91	1.80								
	LMCU			328,971.95	2.50	3/10/2020					
TOTAL DAM REPAIR		400,345.91	1.80	328,971.95	2.50					729,317.86	2.12
216 PATHWAY FUND	MACATAWA	684,635.61	0.30								
	MI CLASS	307,498.46	1.80								
	CIBC/ fna PRIVATE			503,000.00	2.05	10/17/2020					
	GRAND RIVER			518,170.99	2.05	10/4/2022					
	ADVENTURE CU			541,910.74	2.60	4/9/2020					
TOTAL PATHWAY FUND		992,134.07	0.76	1,563,081.73	2.24					2,555,215.80	1.67
246 PUBLIC UTILITY	FLAGSTAR	400,700.11	1.30								
	IRF	848,132.17	1.80								
	CHEMICAL BANK			532,500.72	1.75	7/5/2021					
TOTAL PUBLIC UTILITY		1,248,832.28	1.64	532,500.72	1.75					1,781,333.00	1.67
248 DDA FUND	FLAGSTAR	225,313.03	1.30								
	MI CLASS	426,309.66	1.80								
	UNION BANK			250,000.00	2.70	8/26/2020					
	ADVENTURE CU			213,640.41	2.00	10/27/2021					
TOTAL DDA FUND		651,622.69	1.63	463,640.41	2.38					1,115,263.10	1.94
249 BLDG. INSPECTION	FLAGSTAR BANK	80,412.13	1.30								
	FLAGSTARL BANK R.	56,031.64	1.30								
	MI CLASS	106,769.19	1.82								
	CONSUMERS CU			305,310.87	1.00	3/10/2020					
	CHEMICAL BANK			569,753.35	1.93	10/28/2022					
	CHEMICAL BANK			307,919.91	2.50	4/30/2021					
	FNB OF AMERICA			301,649.26	1.80	10/19/2020					
	FNB OF AMERICA			105,633.99	1.85	12/18/2020					
	FNB OF AMERICA			219,121.47	2.50	9/18/2020					
	FNB OF MI			548,201.80	1.80	12/11/2020					
	INDEPENDENT BANK			321,327.11	2.25	6/19/2021					
TOTAL BLDG. INSPECT.	CHEMICAL BANK	243,212.96	1.53	2,678,817.76	1.93					2,922,030.72	1.90
270 LIBRARY FUND	UNITED BANK	623,752.17	0.40								
	MI CLASS	464,606.16	1.82								
	LMCU			428,459.83	2.65	3/27/2020					
	WMCB			258,829.54	2.60	6/1/2020					
	NORTHPOINTE BANK			547,852.06	2.00	4/7/2020					
TOTAL LIBRARY FUND		1,088,358.33	1.01	1,235,141.43	2.35					2,323,499.76	1.72
701 T & A	CHEMICAL BANK	130,073.60								130,073.60	-
701 JAMES TIMMONS	CHEMICAL BANK			12,400.00	2.00	3/21/2022				12,400.00	2.00
701 JACK SMITH INV.	CHEMICAL BANK	23,130.71	0.50							23,130.71	0.50
701 HENRY KRAMER	CHEMICAL BANK	15,384.76	0.50							15,384.76	0.50
TOTAL		12,273,263.37	1.35	14,202,565.94	2.14		1,500,000.00	2.18		27,975,829.31	1.80

Oxana Sourine 8/26/20
Submitted by Oxana Sourine Deputy Treasurer Date

Ken Peirce 8/26/20
Reviewed by Ken Peirce Treasurer Date



August 27, 2020

Mr. Benjamin Swayze, Manager
Cascade Township
2865 Thornhills Ave. SE
Grand Rapids, MI 49546

Re: Cartoon Network Moving to Digital Preferred Package

Dear Mr. Swayze:

We are committed to keeping you and our customers informed about changes to Xfinity TV services. Accordingly, please note following changes:

- Effective October 27, 2020, StarzEncore, StarzEncore Westerns, StarzEncore Black, and StarzEncore Action will only be available with a subscription to Starz. They will not be included with Digital Preferred. For more information about this change, visit xfinity.com/EncoreChanges.
- Effective October 27, 2020, MoviePlex will no longer be available.
- The distributor of CBeebies en español informed Comcast that effective October 31, 2020 the channel would no longer be available in the U.S.
- Xfinity is adding Zona Football HD. This channel will only have programming when broadcasting soccer games. It is anticipated this may happen with the possible return of UEFA Champions League and Europa League 2020-21 seasons this coming October.

Please feel free to contact me at 616-560-1922 if you have any questions.

Sincerely,

Jeffrey Snyder
Manager of External Affairs
Comcast, Heartland Region
3500 Patterson Ave. SE
Grand Rapids, MI 49512



CASCADE CHARTER TOWNSHIP

2865 Thornhills SE Grand Rapids, Michigan 49546-7140

Date: September 9th, 2020
To: Supervisor Beahan and Township Board Members
From: Ben Swayze, Township Manager
Subject: Consider Resolution of “Declaration of Intent to Make Public Improvements; Tentative Designation of the Special Assessment District; Notice of Public Hearing” For Thornapple River Special Assessment District No. 1

*****Must be removed from the table prior to consideration*****

FACTS:

The Township has received a petition, circulated by members of the Cascade Thornapple River Association (CTRA), to make certain improvements to the Thornapple River including weed control and removal, debris removal and safety enhancements, and silt control and removal, and for the cost of the improvements to be special assessed against each parcel of land within the district. The request is for the cost to be equally assessed against all parcels that front the Thornapple River between the dam and 60th Street, including those parcels that from Township owned property on the river.

They have requested that the special assessment district be implemented for 15 years. The total parcel count for the special assessment district is 305, and the requested work to be done is approximately \$91,500 meaning each parcel will be assessed \$300 per year during the duration of the special assessment district.

The Special Assessment District is being established pursuant to Public Act 188 of the Public Acts of Michigan of 1954, as amended (the “Act” or “Act 188”). It should be noted while the petition has been received by the CTRA, this process is being moved forward on the initiative of the Township Board and, legally, the Township Board is not compelled to carry through the Special Assessment District if it determines it is not in the best interest of the public.

Attached for your review are:

- Step Sheet to Create a Special Assessment District Pursuant to Public Act 199 of 1954 for Thornapple River - Aquatic Weed Treatment and Improvements
- Resolution of “Declaration of Intent to Make Public Improvements; Tentative Designation of the Special Assessment District; Notice of Public Hearing” For Thornapple River Special Assessment District No. 1
- Petitions for Special Assessment District for Improvement of Thornapple River
- Public Act 188 of the Public Acts of Michigan of 1954

ANALYSIS & CONCLUSIONS:

The Township have enlisted the help of attorney Clifford Bloom of Bloom Slugget to assist in the establishment of the Thornapple River Special Assessment District. Mr. Bloom has a specialty in this work and him and his firm have helped to establish similar improvement districts across Michigan. The cost of Mr. Bloom's services, as well as all other direct costs related to the establishment of the district (i.e. printing, mailing, publication) will be charged to the SAD if it is established. If the SAD is not established, the Township is responsible for those costs.

By approving the SAD Resolution tonight, the Township Board declares it's intent to make the Public Improvements as outlined in Exhibit "A" of the resolution, tentatively designates the SAD to fund the cost of said improvements, and declares a public hearing to be held at the regularly scheduled Township Board meeting on September 23, 2020.

If the resolution is approved, Township staff will prepare the notices to be mailed and published in accordance with the act. In its entirety, the SAD process is expected to be completed by the end of September. If approved, the SAD will be collected on the Winter 2020 tax roll, and the first year of improvements will begin in Spring 2021.

If the SAD is established, it is recommended that the Township Board approve and ad-hoc committee, consisting of Township staff, officials, and residents included in the SAD, to provide direction on the expenditure of SAD dollars (...though final appropriation will be at the sole discretion of the Township Board.)

FINANCIAL CONSIDERATIONS:

It is anticipated that the establishment of the Special Assessment District will be between \$5,000 and \$10,000, primarily consisting of legal fees and printing/publication costs. If the SAD is established, these fees can be recovered through the SAD. If it is not established, the Township is responsible for these fees. The Township staff is not recommending that staff time costs or administrative overhead be recovered through the SAD.

If established, the SAD will produce \$91,500 per year. These funds are kept in a separate fund and can only be utilized for the purposed outlined in the SAD plan documents.

RECOMMENDED ACTION:

Consider approval of amended Resolution of "Declaration of Intent to Make Public Improvements; Tentative Designation of the Special Assessment District; Notice of Public Hearing" For Thornapple River Special Assessment District No. 1 with amended public hearing date

CASCADE CHARTER TOWNSHIP

STEP SHEET TO CREATE A SPECIAL ASSESSMENT DISTRICT PURSUANT TO
PUBLIC ACT 188 OF 1954
(THORNAPPLE RIVER - AQUATIC WEED TREATMENT AND MAINTENANCE)

This step sheet sets forth in outline form the procedure for establishing a Special Assessment District pursuant to Michigan Public Act 188 of 1954, for an authorized project or activity (“Public Improvements”).

<u>Dates</u>	<u>Description</u>
Prior to July 3, 2020 (Completed)	Step 1. <u>Filing of Plans</u> – The Township receives plans and estimates for the Public Improvements and the plans and estimates are filed with the Township Clerk.
Regular Township Board Mtg September 9, 2020	Step 2. <u>Resolution No. 1</u> – The Township Board adopts a resolution tentatively declaring its intent to make the Public Improvements, tentatively designating the special assessment district and setting a public hearing to hear any objections to the improvement, the costs, the plans, and the district.
	Step 3. <u>Notice of the First Public Hearing</u> – Notice of the public hearing must be given and must, among other things, include the date, time and place of the hearing, a brief description of the special assessment district, and a statement that the plans and estimates are on file with the Township Clerk for public examination. The notice must be given as follows:
<u>First Publication:</u> September 13, 2020 <u>Second Publication:</u> September 15, 2020	(a) The notice must be given by publication <u>twice</u> in a newspaper of general circulation designated by the Township, the first of which shall not be less than 10 days before the date set for the hearing.
<u>Mailing:</u> September 13, 2020	(b) The notice must also be given by first-class mail to all property owners of record according to Township tax rolls in the special assessment district not less than 10 days before the hearing.
Regular Township Board Mtg September 23, 2020	Step 4. <u>First Public Hearing</u> – At the hearing, the Township Board must hear any objections to the proposed improvements, the Township’s determination to proceed, and the proposed special assessment district.

<p>Regular Township Board Mtg September 23, 2020</p>	<p>Step 5. <u>Resolution No. 2</u> – After the public hearing is held (and at the same meeting if the Township Board desires), if the Township Board decides to proceed, it adopts a resolution determining to make the improvements, approving the plans and costs estimates, and the district. The resolution also directs the Township Supervisor to make the special assessment roll.</p>
<p>Regular Township Board Mtg October 14, 2020</p>	<p>Step 6. <u>Resolution No. 3</u> – When the special assessment roll is reported, the roll is filed with the Township Clerk and the Township Board adopts a resolution setting a public hearing on the roll.</p>
	<p>Step 7. <u>Notice of the Second Public Hearing</u> – Notice of the second public hearing must be given and must, among other things, include the date, time and place of the hearing, and the property owners’ right of appeal to the Michigan Tax Tribunal. The notice must be given as follows:</p>
<p><u>First Publication:</u> October 18, 2020</p> <p><u>Second Publication:</u> October 20, 2020</p>	<p>(a) The notice must be given by publication <u>twice</u> in a newspaper of general circulation designated by the Township, the first of which shall not be less than 10 days before the date set for the hearing.</p>
<p><u>Mailing:</u> October 18, 2020</p>	<p>(b) The notice must also be mailed to all property owners of record according to Township tax rolls in the special assessment district not less than 10 days before the hearing.</p>
<p>Regular Township Board Mtg October 28, 2020</p>	<p>Step 8. <u>Second Public Hearing</u> – At the hearing, the Township Board reviews the roll, and hears any objections to it.</p>
<p>Regular Township Board Mtg October 28, 2020</p>	<p>Step 9. <u>Resolution No. 4</u> – After the public hearing is held (and at the same meeting if the Township Board desires), the Township Board adopts a resolution confirming the roll as reported by the Township Assessor or as corrected by the Township Board, or refers it back to the Township Assessor.</p>
<p>October 29, 2020</p>	<p>Step 10. <u>Roll Endorsed</u> – After the Township Board confirms the roll, the Township Clerk endorses it.</p>

November 29, 2020	Step 11. <u>Assessment Appeals</u> – Property owners who have protested the roll at the public hearing may appeal the roll to the Michigan Tax Tribunal within 30 days of the confirmation of the roll. After that time period has passed, the Tax Tribunal generally does not have jurisdiction to hear appeals.
<u>Mailing:</u> November 30, 2020	Step 12. <u>Final Notice/Letter to Property Owners</u> – Send out the final notice/letter to property owners within 7 days.

**CASCADE CHARTER TOWNSHIP
KENT COUNTY, MICHIGAN**

RESOLUTION NO. _____

THORNAPPLE RIVER SPECIAL ASSESSMENT DISTRICT NO. 1

**DECLARATION OF INTENT TO MAKE PUBLIC
IMPROVEMENTS; TENTATIVE DESIGNATION
OF THE SPECIAL ASSESSMENT DISTRICT;
NOTICE OF PUBLIC HEARING**

Minutes of a _____ meeting of the Township Board of Cascade Charter Township, Kent County, Michigan, held via remote conferencing software ZOOM in accordance with State of Michigan Governor’s Executive Order No. 2020-129 on September 9, 2020, at 7:00 p.m., local time.

PRESENT: Members _____

ABSENT: Members _____

The following resolution was offered for adoption by Member _____ and supported by Member _____:

WHEREAS, Public Act 188 of the Public Acts of Michigan of 1954, as amended (the “Act” or “Act 188”) provides for the making of certain improvements by townships and provides the means to finance the improvements; and

WHEREAS, in the case of public improvements involving the improvement to or maintenance of a lake or other body of water, Section 3 of the Act provides that the Township Board may proceed, on its own initiative, to carry out the public improvements unless sufficient written objections are filed with the Township Board at or before the first public hearing on the special assessment district; and

WHEREAS, the Township intends to proceed to undertake certain public improvements (i.e. the control and eradication of certain aquatic weeds and river management) as described in Exhibit A attached hereto (the “Public Improvements”) with regard to the portion of the Thornapple River located between the Cascade Dam upstream to 60th Street downstream (“Covered Portion”) within Cascade Charter Township; and

WHEREAS, the nature of the Public Improvements is such that a periodic redetermination of costs may be necessary without a change in the special assessment district boundaries and, if at any time during the term of the special assessment district an actual incremental cost equals or exceeds the estimate or the prior year's costs by 10% or more, notice shall be given and a hearing afforded to the property owners and interested parties of record in the special assessment district; and

WHEREAS, there exists a need for the Public Improvements in the Township; and

WHEREAS, Act 188 provides the means to finance the Public Improvements in this matter.

NOW, THEREFORE, BE IT HEREBY RESOLVED:

1. That the Township Board intends to proceed on its own initiative, and to make the Public Improvements as described in Exhibit A.

2. That the Township Board has authorized the preparation of plans showing the Public Improvements, their location, and an estimate of the costs thereof.

3. That the plans and the estimate of costs have been filed with the Township Clerk.

4. That the Township Board anticipates assessing the costs of the Public Improvements on a yearly basis beginning in 2020 based upon the estimates on file with the Township and the resolutions adopted by the Township Board pursuant to this process. Each year thereafter on or before September 30, the Township Board shall, to the extent possible, ascertain the project costs for the coming year. The Township Board shall establish the amount to be assessed based on unexpended funds, cash on hand, and the estimated project costs for that year and assesses that amount. The costs for administration and legal expenses for setting up this special assessment district shall be assessed in 2020.

5. That the Township Board hereby tentatively designates a special assessment district known as the Thornapple River Special Assessment District No. 1, consisting of certain parcels of property described as set forth in the Notice of Public Hearing attached hereto as Exhibit B, which descriptions are incorporated herein by reference for the special assessment district, and against which parcels all or a portion of the cost of said Public Improvements shall be assessed.

6. That the Township Board shall hold a public hearing on September 23, 2020, at 7:00 p.m. at the Kent District Library-Cascade Township Branch at 2870 Jacksmith Avenue SE, Grand Rapids, Michigan 49546, or via remote conferencing software ZOOM in accordance with State of Michigan Governor's Executive Order No. 2020-129 or any subsequent Executive Order, to hear and consider objections to the proposed Public Improvements, the special assessment district tentatively designated herein, and all other matters relating to said proposed Public Improvements.

7. That the Township Clerk shall cause to be published a Notice of the Public Hearing in the Grand Rapids Press, a newspaper of general circulation within the Township, at least two

(2) times prior to the public hearing, with the first publication at least ten (10) days prior to the public hearing. Proofs of publication of such notice shall be filed with the Township Board.

8. That the Township Clerk, at least ten (10) days prior to the date of the public hearing, shall also send a Notice of the Public Hearing by first class mail addressed to each record owner, or party in interest, of each parcel of property to be assessed, at the address shown for each such owner or party in interest upon the last Township tax assessment records and roll for ad valorem tax purposes, as supplemented by any subsequent changes in the names or addresses of the owners or parties listed therein, except in the case of railroad companies, who shall be mailed a Notice of the Public Hearing by registered mail within five (5) days after the first publication of the notice described in Paragraph 7 above. If a record owner's name does not appear on the Township tax assessment records, then the notice required by this paragraph shall be given to the record owner at the address shown by the records of the Kent County Register of Deeds.

9. That the form of the Notice of the Public Hearing to be mailed and published, as required herein, shall be substantially as set forth in Exhibit B hereto.

10. That all actions heretofore taken by Township officials, employees, and agents with respect to the Public Improvements and proceedings under Act 188 are hereby ratified and confirmed.

11. That all resolutions or parts of resolutions in conflict herewith shall be and the same are hereby rescinded.

YEAS: Members _____

NAYS: Members _____

ABSENT: Members _____

RESOLUTION DECLARED ADOPTED.

Susan Slater
Township Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF _____)

I, Susan Slater, Cascade Charter Township Clerk, hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Cascade Charter Township Board at a _____ meeting held on _____, 2020, and that public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, as amended, including, in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have affixed my official signature this ____ day of _____, 2020.

Susan Slater
Township Clerk

EXHIBIT A

Description of the Public Improvements; Cost Estimates

Control and partial eradication of aquatic plants and weeds within the Covered Portion of the Thornapple River by means of chemical and/or biological means and/or weed harvesting and also river management (including, but not limited to, river studies, removal of blockages, dredging, sedimentation control and similar undertakings).

Projected/Estimated Total Cost for the Public Improvements for the Entire Duration of the Special Assessment (15 years)-	\$ <u>1,372,500</u> total
Projected/Estimated Total Cost per Year of the Public Improvements -	\$ <u>\$91,500</u>
Projected/Estimated Cost per Assessed Parcel per Year -	\$ <u>\$91,500</u>

[All costs and assessments are subject to changes and increases as provided by Act 188]

Map-area within the special assessment district (shaded):

[Insert map of the Covered Portion of the Thornapple River involved]



FIRST PUBLIC HEARING

TAKE NOTICE that the Township Board of Cascade Charter Township will hold a public hearing on _____, 2020 at 7:00 p.m. in the Kent District Library-Cascade Township Branch at 2870 Jacksmith Avenue SE Grand Rapids, Michigan 49546, to hear and consider any objections to the proposed Public Improvements, the proposed Special Assessment District, the proposed special assessment, and all other matters relating to the Public Improvements.

TAKE FURTHER NOTICE that a description of the Public Improvements and estimates of cost for the Public Improvements are on file with the Township Clerk for public examination.

PROPERTY SHALL NOT BE ADDED TO THE PROPOSED SPECIAL ASSESSMENT DISTRICT AND THE ORIGINAL ESTIMATE OF COSTS SHALL NOT BE INCREASED BY 10% OR MORE PER YEAR WITHOUT FURTHER NOTICE AND PUBLIC HEARING.

Periodic redeterminations of the costs of the Public Improvements may be necessary, without a change in the Special Assessment District, and in that event, such redeterminations may be made by the Township Board without further notice to record owners or parties in interest in the lands in the Special Assessment District, in accordance with the provisions of said Act 188 (unless the amounts assessed increase by 10% or more from the prior year, in which case notice and public hearing will occur).

TAKE FURTHER NOTICE that a property owner or person in interest must either appear and object at the public hearing or submit a letter of appearance and objection to the Township prior to the public hearing in order to preserve the person's right to appeal the special assessment to the Michigan Tax Tribunal. A record owner of land may appeal a special assessment by filing a written appeal with the Michigan Tax Tribunal within 30 days after written confirmation of the special assessment roll.

Should the Township Board determine at the above-mentioned hearing to approve the proposed special assessment district, then thereafter, a second hearing will be held to confirm the tax roll for the special assessment district.

This notice was authorized by the Township Board of Cascade Charter Township.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Susan Slater
Township Clerk
Cascade Charter Township
2865 Thornhills Avenue SE
Grand Rapids, Michigan 49546
Phone: (616) 949-1508

Dated: _____, 2020

Susan Slater, Township Clerk



CASCADE CHARTER TOWNSHIP

2865 Thornhills SE Grand Rapids, Michigan 49546-7140

Date: September 9th, 2020
To: Supervisor Beahan and Township Board Members
From: Ben Swayze, Township Manager
Subject: Consider Resolution of "Declaration of Intent to Make Public Improvements; Tentative Designation of the Special Assessment District; Notice of Public Hearing" For Laraway Lake Special Assessment District No. 1

*****This item must be removed from the table before being considered*****

FACTS:

The Township has received a petition, circulated by property owners on Laraway Lake, to make certain improvements to Laraway Lake, including weed control and removal and for the cost of the improvements to be special assessed against parcels of land within the district. The request is for the cost to be equally assessed against all parcels that front Layaway Lake, with the exception of vacant parcels owned by duplicate homeowners.

They have requested that the special assessment district be implemented for 10 years. The total parcel count for the special assessment district is 23, and the requested work to be done is approximately \$11,575 meaning each parcel will be assessed \$504 per year during the duration of the special assessment district.

The Special Assessment District is being established pursuant to Public Act 188 of the Public Acts of Michigan of 1954, as amended (the "Act" or "Act 188"). It should be noted while the petition has been received by the Laraway Lake property owners, this process is being moved forward on the initiative of the Township Board and, legally, the Township Board is not compelled to carry through the Special Assessment District if it determines it is not in the best interest of the public.

Attached for your review are:

- Step Sheet to Create a Special Assessment District Pursuant to Public Act 199 of 1954 for Laraway Lake - Aquatic Weed Treatment and Improvements
- Resolution of "Declaration of Intent to Make Public Improvements; Tentative Designation of the Special Assessment District; Notice of Public Hearing" For Laraway Lake Special Assessment District No. 1
- Estimated Costs for Laraway Lake Improvements
- Petitions for Special Assessment District for Improvement of Laraway Lake
- Public Act 188 of the Public Acts of Michigan of 1954

ANALYSIS & CONCLUSIONS:

The Township have enlisted the help of attorney Clifford Bloom of Bloom Slugget to assist in the establishment of the Laraway Lake Special Assessment District. Mr. Bloom has a specialty in

this work and him and his firm have helped to establish similar improvement districts across Michigan. The cost of Mr. Bloom's services, as well as all other direct costs related to the establishment of the district (i.e. printing, mailing, publication) will be charged to the SAD if it is established. If the SAD is not established, the Township is responsible for those costs.

By approving the SAD Resolution tonight, the Township Board declares its intent to make the Public Improvements as outlined in Exhibit "A" of the resolution, tentatively designates the SAD to fund the cost of said improvements, and declares a public hearing to be held at the regularly scheduled Township Board meeting on September 23, 2020.

If the resolution is approved, Township staff will prepare the notices to be mailed and published in accordance with the act. In its entirety, the SAD process is expected to be completed by the end of September. If approved, the SAD will be collected on the Winter 2020 tax roll, and the first year of improvements will begin in Spring 2021.

If the SAD is established, it is recommended that the Township Board approve and ad-hoc committee, consisting of Township staff, officials, and residents included in the SAD, to provide direction on the expenditure of SAD dollars (...though final appropriation will be at the sole discretion of the Township Board.)

FINANCIAL CONSIDERATIONS:

It is anticipated that the establishment of the Special Assessment District will be between \$2,500 and \$5,000, primarily consisting of legal fees and printing/publication costs. If the SAD is established, these fees can be recovered through the SAD. If it is not established, the Township is responsible for these fees. The Township staff is not recommending that staff time costs or administrative overhead be recovered through the SAD.

If established, the SAD will produce \$11,575 per year. These funds are kept in a separate fund and can only be utilized for the purposed outlined in the SAD plan documents.

RECOMMENDED ACTION:

Consider approval of amended Resolution of "Declaration of Intent to Make Public Improvements; Tentative Designation of the Special Assessment District; Notice of Public Hearing" For Laraway Lake Special Assessment District No. 1.

CASCADE CHARTER TOWNSHIP

STEP SHEET TO CREATE A SPECIAL ASSESSMENT DISTRICT PURSUANT TO
PUBLIC ACT 188 OF 1954
(LARAWAY LAKE - AQUATIC WEED TREATMENT)

This step sheet sets forth in outline form the procedure for establishing a Special Assessment District pursuant to Michigan Public Act 188 of 1954, for an authorized project or activity (“Public Improvements”).

<u>Dates</u>	<u>Description</u>
DONE	Step 1. <u>Filing of Plans</u> – The Township receives plans and estimates for the Public Improvements and the plans and estimates are filed with the Township Clerk.
Regular Board Meeting 9/9/2020	Step 2. <u>Resolution No. 1</u> – The Township Board adopts a resolution tentatively declaring its intent to make the Public Improvements, tentatively designating the special assessment district and setting a public hearing to hear any objections to the improvement, the costs, the plans, and the district.
	Step 3. <u>Notice of the First Public Hearing</u> – Notice of the public hearing must be given and must, among other things, include the date, time and place of the hearing, a brief description of the special assessment district, and a statement that the plans and estimates are on file with the Township Clerk for public examination. The notice must be given as follows:
<u>First Publication:</u> 9/13/2020 <u>Second Publication:</u> 9/15/2020	(a) The notice must be given by publication <u>twice</u> in a newspaper of general circulation designated by the Township, the first of which shall not be less than 10 days before the date set for the hearing.
<u>Mailing:</u> 9/13/2020	(b) The notice must also be given by first-class mail to all property owners of record according to Township tax rolls in the special assessment district not less than 10 days before the hearing.
Regular Board Meeting 9/23/2020	Step 4. <u>First Public Hearing</u> – At the hearing, the Township Board must hear any objections to the proposed improvements, the Township’s determination to proceed, and the proposed special assessment district.

<p>Regular Board Meeting 9/23/2020</p>	<p>Step 5. <u>Resolution No. 2</u> – After the public hearing is held (and at the same meeting if the Township Board desires), if the Township Board decides to proceed, it adopts a resolution determining to make the improvements, approving the plans and costs estimates, and the district. The resolution also directs the Township Supervisor to make the special assessment roll.</p>
<p>Regular Board Meeting 10/14/2020</p>	<p>Step 6. <u>Resolution No. 3</u> – When the special assessment roll is reported, the roll is filed with the Township Clerk and the Township Board adopts a resolution setting a public hearing on the roll.</p>
	<p>Step 7. <u>Notice of the Second Public Hearing</u> – Notice of the second public hearing must be given and must, among other things, include the date, time and place of the hearing, and the property owners’ right of appeal to the Michigan Tax Tribunal. The notice must be given as follows:</p>
<p><u>First Publication:</u> 10/18/2020 <u>Second Publication:</u> 10/20/2020</p>	<p>(a) The notice must be given by publication <u>twice</u> in a newspaper of general circulation designated by the Township, the first of which shall not be less than 10 days before the date set for the hearing.</p>
<p><u>Mailing:</u> 10/15/2020</p>	<p>(b) The notice must also be mailed to all property owners of record according to Township tax rolls in the special assessment district not less than 10 days before the hearing.</p>
<p>Regular Board Meeting 10/28/2020</p>	<p>Step 8. <u>Second Public Hearing</u> – At the hearing, the Township Board reviews the roll, and hears any objections to it.</p>
<p>Regular Board Meeting 10/28/2020</p>	<p>Step 9. <u>Resolution No. 4</u> – After the public hearing is held (and at the same meeting if the Township Board desires), the Township Board adopts a resolution confirming the roll as reported by the Township Assessor or as corrected by the Township Board, or refers it back to the Township Assessor.</p>
<p>10/29/2020</p>	<p>Step 10. <u>Roll Endorsed</u> – After the Township Board confirms the roll, the Township Clerk endorses it.</p>

<p style="text-align: center;">11/29/20</p>	<p>Step 11. <u>Assessment Appeals</u> – Property owners who have protested the roll at the public hearing may appeal the roll to the Michigan Tax Tribunal within 30 days of the confirmation of the roll. After that time period has passed, the Tax Tribunal generally does not have jurisdiction to hear appeals.</p>
<p><u>Mailing:</u> 11/30/20</p>	<p>Step 12. <u>Final Notice/Letter to Property Owners</u> – Send out the final notice/letter to property owners within 7 days.</p>

DRAFT
(April 19, 2020)

LARAWAY LAKE SPECIAL ASSESSMENT DISTRICT NO. 1
TOWNSHIP RESOLUTION NO. 1

This Resolution:

- (1) Indicates that the Township Board intends to proceed with the public improvements and to defray the associated costs and expenses by means of specially assessing the lands in the special assessment district; and
- (2) Sets a public hearing date and time to hear objections, if any, to the proposed special assessment district, and to the public improvements.

The Notice of the Public Hearing must be:

- (1) Published twice in a local newspaper, with the first publication to be at least 10 days before the hearing; and
- (2) Mailed once at least 10 days before the hearing to each owner of, or any party having an interest in, property to be assessed, whose name appears upon the last Township tax assessment roll for ad valorem tax purposes.

THIS COVER SHEET IS FOR INSTRUCTIONAL PURPOSES ONLY.
PLEASE REMOVE BEFORE SUBMITTING
RESOLUTION FOR ADOPTION.

**CASCADE CHARTER TOWNSHIP
KENT COUNTY, MICHIGAN**

RESOLUTION NO. _____

LARAWAY LAKE SPECIAL ASSESSMENT DISTRICT NO. 1

**DECLARATION OF INTENT TO MAKE PUBLIC
IMPROVEMENTS; TENTATIVE DESIGNATION
OF THE SPECIAL ASSESSMENT DISTRICT;
NOTICE OF PUBLIC HEARING**

Minutes of a _____ meeting of the Township Board of Cascade Charter Township, Kent County, Michigan, held via remote conferencing software ZOOM in accordance with State of Michigan Governor’s Executive Order No. 2020-129 on September 9, 2020, at 7:00p.m., local time.

PRESENT: Members _____

ABSENT: Members _____

The following resolution was offered for adoption by Member _____ and supported by Member _____ :

WHEREAS, Public Act 188 of the Public Acts of Michigan of 1954, as amended (the “Act” or “Act 188”) provides for the making of certain improvements by townships and provides the means to finance the improvements; and

WHEREAS, in the case of public improvements involving the improvement to or maintenance of a lake or other body of water, Section 3 of the Act provides that the Township Board may proceed, on its own initiative, to carry out the public improvements unless sufficient written objections are filed with the Township Board at or before the first public hearing on the special assessment district; and

WHEREAS, the Township intends to proceed to undertake certain public improvements (i.e. the control and eradication of certain aquatic weeds) as described in Exhibit A attached hereto (the “Public Improvements”) with regard to Laraway Lake located within Cascade Charter Township; and

WHEREAS, the nature of the Public Improvements is such that a periodic redetermination of costs may be necessary without a change in the special assessment district boundaries and, if at any time during the term of the special assessment district an actual incremental costs equals or exceeds the estimate or the prior year's costs by 10% or more, notice shall be given and a hearing afforded to the property owners and interested parties of record in the special assessment district; and

WHEREAS, there exists a need for the Public Improvements in the Township; and

WHEREAS, Act 188 provides the means to finance the Public Improvements in this matter.

NOW, THEREFORE, BE IT HEREBY RESOLVED:

1. That the Township Board intends to proceed on its own initiative, and to make the Public Improvements as described in Exhibit A.

2. That the Township Board has authorized the preparation of plans showing the Public Improvements, their location, and an estimate of the costs thereof.

3. That the plans and the estimate of costs have been filed with the Township Clerk.

4. That the Township Board anticipates assessing the costs of the Public Improvements on a yearly basis beginning in 2020 based upon the estimates on file with the Township and the resolutions adopted by the Township Board pursuant to this process. Each year thereafter on or before September 30, the Township Board shall, to the extent possible, ascertain the project costs for the coming year. The Township Board shall establish the amount to be assessed based on unexpended funds, cash on hand, and the estimated project costs for that year and assesses that amount. The costs for administration and legal expenses for setting up this special assessment district shall be assessed in 2020.

5. That the Township Board hereby tentatively designates a special assessment district known as the Laraway Lake Special Assessment District No. 1, consisting of certain parcels of property described as set forth in the Notice of Public Hearing attached hereto as Exhibit B, which descriptions are incorporated herein by reference for the special assessment district, and against which parcels all or a portion of the cost of said Public Improvements shall be assessed.

6. That the Township Board shall hold a public hearing on September 23, 2020, at 7:00 p.m. at the Kent District Library-Cascade Township Branch at 2870 Jacksmith Avenue SE, Grand Rapids, Michigan 49546, or via remote conferencing software ZOOM in accordance with State of Michigan Governor's Executive Order No. 2020-129 or any subsequent Executive Order, to hear and consider objections to the proposed Public Improvements, the special assessment district tentatively designated herein, and all other matters relating to said proposed Public Improvements.

7. That the Township Clerk shall cause to be published a Notice of the Public Hearing in the Grand Rapids Press, a newspaper of general circulation within the Township, at least two

STATE OF MICHIGAN)
) ss.
COUNTY OF _____)

I, Susan Slater, Cascade Charter Township Clerk, hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Cascade Charter Township Board at a _____ meeting held on _____, 2020, and that public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, as amended, including, in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have affixed my official signature this ____ day of _____, 2020.

Susan Slater
Township Clerk

EXHIBIT A

Description of the Public Improvements; Cost Estimates

Control and partial eradication of aquatic plants and weeds within Laraway Lake by means of chemical and/or biological means and/or weed harvesting.

Projected/Estimated Total Cost for the Public Improvements
for the Entire Duration of the Special Assessment - \$ 115,750 total

Projected/Estimated Total Cost per Year of the Public
Improvements - \$ 11,575

Projected/Estimated Cost per Assessed Parcel per Year - \$ 504

[All costs and assessments are subject to changes and increases as provided by Act 188]

Map-area within the special assessment district (shaded):

[Insert map of Laraway Lake]



FIRST PUBLIC HEARING

TAKE NOTICE that the Township Board of Cascade Charter Township will hold a public hearing on _____, 2020 at 7:00 p.m. in the Kent District Library-Cascade Township Branch at 2870 Jacksmith Avenue SE Grand Rapids, Michigan 49546, to hear and consider any objections to the proposed Public Improvements, the proposed Special Assessment District, the proposed special assessment, and all other matters relating to the Public Improvements.

TAKE FURTHER NOTICE that a description of the Public Improvements and estimates of cost for the Public Improvements are on file with the Township Clerk for public examination.

PROPERTY SHALL NOT BE ADDED TO THE PROPOSED SPECIAL ASSESSMENT DISTRICT AND THE ORIGINAL ESTIMATE OF COSTS SHALL NOT BE INCREASED BY 10% OR MORE PER YEAR WITHOUT FURTHER NOTICE AND PUBLIC HEARING.

Periodic redeterminations of the costs of the Public Improvements may be necessary, without a change in the Special Assessment District, and in that event, such redeterminations may be made by the Township Board without further notice to record owners or parties in interest in the lands in the Special Assessment District, in accordance with the provisions of said Act 188 (unless the amounts assessed increase by 10% or more from the prior year, in which case notice and public hearing will occur).

TAKE FURTHER NOTICE that a property owner or person in interest must either appear and object at the public hearing or submit a letter of appearance and objection to the Township prior to the public hearing in order to preserve the person's right to appeal the special assessment to the Michigan Tax Tribunal. A record owner of land may appeal a special assessment by filing a written appeal with the Michigan Tax Tribunal within 30 days after written confirmation of the special assessment roll.

Should the Township Board determine at the above-mentioned hearing to approve the proposed special assessment district, then thereafter, a second hearing will be held to confirm the tax roll for the special assessment district.

This notice was authorized by the Township Board of Cascade Charter Township.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Susan Slater
Township Clerk
Cascade Charter Township
2865 Thornhills Avenue SE
Grand Rapids, Michigan 49546
Phone: (616) 949-1508

Dated: _____, 2020

Susan Slater, Township Clerk

Tom Koster

From: Zachary Berry B.S. <zach@aquaticdoctors.com> on behalf of Zachary Berry B.S.
Sent: Thursday, July 9, 2020 11:14 PM
To: Tom Koster
Subject: Laraway Lake Cost estimates for 2021

Hi Tom,

Here's what I've come up with in regards to an annual cost for 2021:

As we discussed, we will want to be very aggressive with the treatments to regain control of the lake.

\$4275 for 3 emergent/Lily Pad treatments (@ \$285/acre treating 5 acres/treatment)

\$1050 for 5 Algae treatments (@ \$42/acre treating 5ac/treatment)

\$5000 for 5 Submersed weed treatments (@ \$200/acre treating 5ac/treatment)

TOTAL FOR 2021: \$10,325

Please let me know if you have any other questions.

Have a great weekend!

Zach

--



Zach Berry B.S.
General Manager/Aquatic Biologist

P: 616.365.1698
F: 501.647.3041

P.O. Box 150247
Grand Rapids, MI 49515-0247

www.aquaticdoctors.com

Tom Koster

From: Zachary Berry
Sent: Friday, September 27, 2019 3:59 PM
To: TLKOSTER@realvesco.com
Subject: Laraway Lake Proposal 2020
Attachments: Laraway Lake.pdf

Good afternoon Tom,

I'd like to thank you for your interest in Aquatic Doctors! Attached is a quote/proposal for Laraway Lake for the 2020 season. Just to note, not all prices provided on the proposal will be charged, they are simply options you have to treat your lake. It was a pleasure meeting you yesterday and I look forward to working with you in the future. I think we can get Laraway Lake looking a lot better in due time!

Aquatic Doctors is a local business to Grand Rapids. We treat many of the ponds and lakes all over the State of Michigan with spectacular results. We hope to add your lake to that list! If you have any other questions, feel free to call/email me here at the office. Our number here is (616)-365-1698. If everything looks good, just sign the back page of the proposal and send it my way and we can get the ball rolling! Again, thank you so much for your time.



Zach Berry
Assistant General Manager/Sales Manager

P: 616.365.1698
F: 501.647.3041

P.O. Box 150247
Grand Rapids, MI 49515-0247

www.aquaticdoctors.com



AQUATIC DOCTORS LAKE MANAGEMENT, INC. ("Aqua Docs") of P.O. Box 150247, Grand Rapids, Michigan 49515 and Laraway Lake Association of Cascade, Michigan agree:

Aqua Docs will provide a professional aquatic program for the control of weeds and/or algae in Laraway Lake. The program will consist of the following:

May/June: Weed and Algae treatment applying restrictive products such as Navigate (2,4-D), Diquat, Triclopyr, Aquathol K, Hydrothol 19, Glyphosate and non-water restrictive products such as copper sulfate, Cutrine-Plus, Cutrine-Ultra, Cygnet Plus, and shade as a tracer.

**3-4 weeks after initial treatment- spot treat weed beds and algae treatment.

July and August: Algae treatments applying non-water restrictive products such as copper sulfate, Cutrine-Plus, Cutrine-Ultra, Cygnet Plus and shade as a tracer. Spot weed treatment for EWM and other nuisance plant growth.

Cost per Acre:

Navigate: Granular systemic 2,4-D herbicide to control Eurasian Watermilfoil	\$ 325.00
Triclopyr: Granular systemic herbicide to control Eurasian	\$ 560.00
Triclopyr: Liquid systemic herbicide to control EWM	\$ 315.00
Diquat: Liquid herbicide to control EWM, Curlyleaf, and Pondweeds	\$ 205.00
Aquathol K-Hydrothol 191: Liquid herbicide to control Pondweeds	\$ 195.00
Glyphosate: Liquid herbicide for Lily pad control	\$ 285.00
Algaecides: Granular products to control Chara	\$ 65.00
Algaecides: Granular and liquid products to control algae	\$ 42.00

Cost per Pound:

Muck Treatment using Muck RemoveRX Pellets:	\$ 10.00/lb
Enzyme Treatment using organic materials:	\$ 14.50/lb
Water Quality Program:	\$ 50.00/sample

Description and Optional Services:

Weed Treatment: Milfoil, Curly-leaf, Coon-tail, Chara, and various pondweed treatments applying restrictive products such as granular Navigate (2,4-D), Aquathol K, Hydrothol 191, Diquat, Triclopyr, Komeen, Glyphosate, and Cygnet Plus.

Algae treatment: Non-water restrictive algaecides such as Copper Sulfate, Curtain-Plus, Cutrine-Ultra, Chelated Copper, Earthtech, Greenclean, and shade as a tracer. Treatments should occur monthly to prevent existing growth and prevent re-growth. Surrounding conditions (i.e. sunlight, temperature, nutrient concentration, etc...) may require additional treatments.

Muck/Enzyme Treatment: Designed to decrease levels of organic sediment in lakes and ponds while reducing odors and improving water clarity. The pellets sink quickly, targeting 'muck' on the bottom. Muck Remover does not contain pathogenic bacteria and it is fish and wildlife friendly. Contains 3 billion CFU/gram (Colony-forming units).

Water Quality Program: Water quality program consists of lake samples taken and sent to an independent laboratory (Prein&Newhof). The samples can be tested for a variety of things including: fecal bacteria (E. coli), dissolved oxygen, conductivity, total dissolved solids, pH and alkalinity. Primarily E. coli is the focus.



- Specific treatment dates will be set by Aqua Docs, in cooperation with Tom Koster Lake Board.
- Please be aware Aqua Docs can only treat weeds and algae present at the time of treatment. We have no control over future weed or algae growth based on the current chemicals registered for aquatic use in Michigan.
- Unless otherwise stated in the program, all other aquatic pest control will require a separate program (i.e. cattails, duckweed, largeleaf pondweed, lily pads, purple loosestrife, watermeal, etc...)

Aqua Docs will obtain the DEQ "Aquatic Nuisance Control permit" and post restriction signs as required. Any facility or location related permits/requirements, for example, "Discharge or Retention" permits will be the responsibility of the customer, association, resident or facility. It is your association's/group's responsibility to notify each resident within one hundred (100) feet of the treatment area at least seven (7) days in advance of the first treatment that chemicals will be applied. This notification requirement must be provided to every property owner who has consented to have their property treated. Lake boards and townships who assess the lake property owners are exempt from individual consent documentation. The property owner is responsible for removing any restriction signs ten (10) days after the conclusion of water use restrictions.

Aqua Docs carries a general liability policy of insurance for workmans comp, bodily injury and property damage with limits of \$1,000,000.00 per occurrence. Certificates of insurance will be provided upon request.

The State of Michigan requires a minimum fee of \$75.00 and increases the fee to \$1500.00 for treatment areas of 100 acres or more. Please make check to the State of Michigan. Application for the DEQ "Aquatic Nuisance Control permit" shall occur promptly after the fee is received from the customer.

Special Notes & Conditions of Treatments

- #1 - Our office must be notified of any inlets/outlets to meet specific permit requirements with the Michigan DEQ.
- #2 - If the water body is being used as a source of irrigation, please notify our office prior to any treatments.
- #3 - To minimize the possible effects on health and the environment, the treated waters MAY be restricted for such uses as swimming, bathing, irrigation, fish consumption and/or livestock.
- #4 - If an access site has not been determined or established prior to services rendered, then an access site must be determined at the discretion of the applicator at the time of treatment.

Payment in full is due within fifteen (15) days of each application. Any amount remaining unpaid when due shall accrue a penalty of 1.5% per month.

All materials utilized by Aqua Docs shall be of the highest quality and are registered with the U.S. Environmental Protection Agency and the Michigan Department of Agriculture.

The accumulation of dying and decomposing plants and algae can deplete the dissolved oxygen supply in the water, which may result in fish mortality. Please note that such occurrences are minimal, however, the possibility does exist. Due to their level of sensitivity, Goldfish, Coy, and Trout are more susceptible to a treatment than other fish species. During Late Spring and Summer, many NATURAL fish kills occur due to an increase in water temperature and spawning habits, primarily.

Three or five year treatment program: As an incentive to establish a multiple year agreement we will treat your lake or pond at the same price structure as 2020 for 2021! The remaining years (2022-2024) will have cost increases of three percent or less. If total chemical costs exceeds 10% from the previous year a new agreement will have to be mutually acceptable. If during the life of the contract the DNR or other regulatory agencies significantly change the approved treatment procedures or the client finds the manner in which the work is performed less than satisfactory, either party may terminate this agreement upon giving ninety (90) days advance written notice thereof.



Contract:

Signature Page for “Laraway Lake”

Program Option for Laraway Lake:

One (1) Year Program- _____
Three (3) Year Program- _____
Five (5) Year Program- _____
(Just initial your choice)

Aquatic Doctors Lake Management, Inc.

By: MT Ryan Schauland B.S.
President

Signature

Date

For Laraway Lake Representative:

Name (Print) _____

Title _____

Address: _____

Phone: _____

(Day): _____

(Eve): _____

Signature

Date

email: _____

















Tom Koster
1930 Boxthorn

540-2625
2019

9/10-11/2019

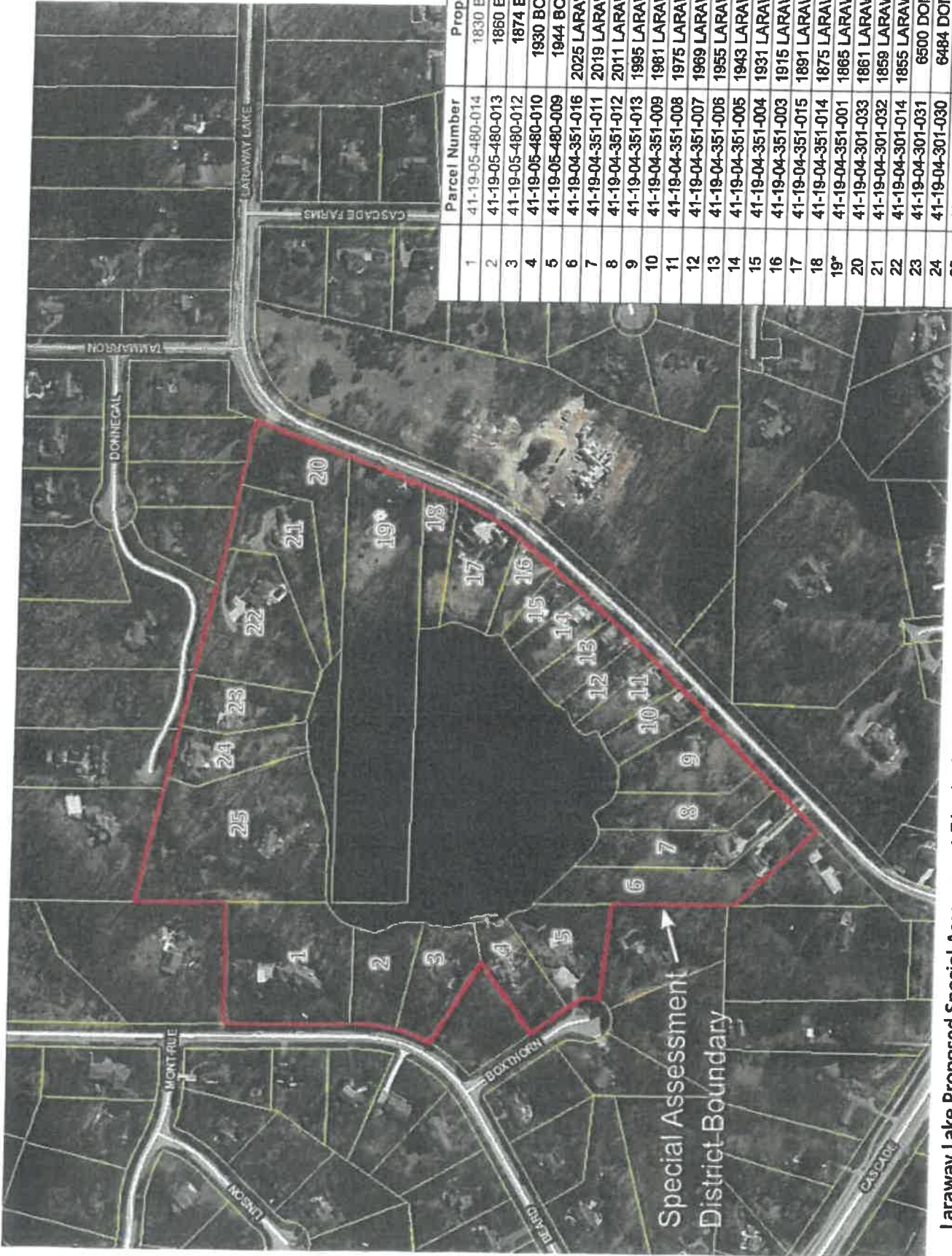
I'm in agreement regarding future maintenance and weed control on Laraway Lake.

NAME	ADDRESS	EMAIL	PHONE
1  Remco Bergsma	830 Beard	remcobergsma@hotmail.com	
2  Anne Hupp	910 1860 Beard	ahorv0513@comcast.net	
3  Holly Miller	910 1874 Beard	ballou49@	
4  Tom Koster	910 1930 Boxthorn Ct	tkoster@realwest.com	
5  Susan Yu	910 1944 Boxthorn Ct	Diana@ConcordCapital.com	
6	2025 Laraway Lk		
7  James Lusmon	2019 Laraway Lk		
8	1995 Laraway Lk		
9  Jody Walker	910 1981 Laraway Lk	jualler2@gmail.com	
10  Ann Hansen	1975 Laraway Lk		
11  Morris R. Rave	910 1955 Laraway Lk		
12 -	1943		
13  Mark	1931		
14  David	1964 Laraway Lk		
15  J. L. Jensen	1915		
16 -	1891		
17  J. W. Quarantello	→ 1865		
18	→ 1875		
19 			to 6400 Bonnie Lake Ln.
20			
21			
22			
23			
24			

Laraway Lake Property Owners				
Property	PP#	Owners Name & Address	Phone #	Email
1	301-024	Kassouni & Lyubov Van 6400 Donnegal Lane, SE Grand Rapids, MI 49546	616-794-0989 616-734-9781	van@roofmelt.com
2	301-030	Richard H. Benninger 6484 Donnegal Lane, SE Grand Rapids, MI 49546	No listing	beybenger@yahoo.com
3	301-031	Drew & Caroline Tilton 6500 Donnegal Lane, SE Grand Rapids, MI 49546		carolinetilton@yahoo.com drewtilton@gmail.com
4	301-014	Gary Maximiuk 1855 Laraway Lake Dr. SE Grand Rapids, MI 49546	616-340-4759 (for sale)	maximiuk@voyager.net
5	301-032	Robert Price (Kathy) 1859 Laraway Lake Dr. SE Grand Rapids, MI 49546	940-8166 698-0300	r.price@comcast.net
6	301-033	Tom & Gwen Heetderks 1861 Laraway Lake Dr., SE Grand Rapids, MI 49546	502-744-5393	ggheetderks@aol.com
7	351-001	William Quarandillo (Mary) 1865 Laraway Lake Dr., SE Grand Rapids, MI 49546	940-4067	mlguar@sbcglobal.net
7	351-014	William Quarandillo (Mary) 1865 Laraway Lake Dr., SE Grand Rapids, MI 49546	940-4067	mlguar@sbcglobal.net
8	351-015	John Brann (single) 1891 Laraway Lake Dr. SE Grand Raids, MI 49546		
9	351-003	Steve & Jane DeGood 1915 Laraway Lake Dr., SE Grand Rapids, MI 49546 (Mailing: 7611 Limehollow Dr SE)	616-299-3517 616-975-5410	sdegood@comcast.net
10	351-004	Mark & Melissa Elenbaas 1931 Laraway Lake Dr., SE Grand Rapids, MI 49546	616-481-0563 616-818-5432	melissaelenbaas@icloud.com
11	351-005	Krista Price (single) 1943 Laraway Lake Dr. SE Grand Rapids, MI 49546	616-648-2441	kristadawnprice@gmail.com
12	351-006	Kassouni & Lyubov Van 1955 Laraway Lake Dr., SE Grand Rapids, MI 49546 (Mail: 815 Front St., Belding, MI 48809)	616-734-9781 616-794-0989	van@roofmelt.com

7 signed
2 verbal
9 (3)

13	351-007	Gary & Linda Foerster 1969 Laraway Lake Dr., SE Grand Rapids, MI 49546	616-443-7734	GRFoerster1@msn.com
14	351-008	Chris & Barb Ritsema 1975 Laraway Lake Dr. SE – Vacant Grand Rapids, MI 49546	616-916-6354	critsema@lifeprocesscenter.org
15	351-009	Justin & Jennifer Waller 1981 Laraway Lake Dr. SE Grand Rapids, MI 4956	616-490-6926	Jwaller2@gmail.com
16	351-013	Seung Ho Han (Janice) (Jenny) 1995 Laraway Lake Dr. SE Grand Rapids, MI 49546	940-3778 364-8107	5271 Northland Drive Grand Rapids, MI (use U.S. Mail)
17	351-012	James Kusmierski (Lauren) 2019 Laraway Lake Dr., SE Grand Rapids, MI 49546	956-6160	jkart@altelco.net
18	351-011	James Kusmierski (Lauren) 2019 Laraway Lake Dr., SE Grand Rapids, MI 49546	956-6160	
19	351-016	Joyce Thomet (single) 2025 Laraway Lake Dr. SE Grand Rapids, MI 49546	949-0356 616-260-5560	jgthomet@aol.com
20	480-009	Owen Pyle (single) 1944 Boxthorn Ct., SE Grand Rapids, MI 49546	Wk: 949-0121	owen@concordcapitalmanagement.com
21	480-010	Thomas Koster (Beth) 1930 Boxthorn Ct., SE Grand Rapids, MI 49546	540-2625	tkoster@realvesco.com
22	480-012	Beverly Heyne (Bill) 1874 Beard Dr., SE Grand Rapids, MI 49546	949-8682	Wheyne14@gmail.com
23	480-013	Richard Horvitz (Ann) 1860 Beard Dr., SE Grand Rapids, MI 49546	957-1576	Rhorv1117@comcast.net
24 23	480-014	William Currie (Janice) 1830 Beard Dr., SE Grand Rapids, MI 49546	942-4561	janicelcurrie@att.net bcurrie@ufpi.com
25				
26				
27				
28				



Parcel Number	Property Address
1	41-19-05-480-014
2	1830 BEARD DR SE
3	1860 BEARD DR SE
4	1874 BEARD DR SE
5	1930 BOXTHORN CT SE
6	1944 BOXTHORN CT SE
7	2025 LARAWAY LAKE DR SE
8	2019 LARAWAY LAKE DR SE
9	2011 LARAWAY LAKE DR SE
10	1995 LARAWAY LAKE DR SE
11	1981 LARAWAY LAKE DR SE
12	1975 LARAWAY LAKE DR SE
13	1969 LARAWAY LAKE DR SE
14	1955 LARAWAY LAKE DR SE
15	1943 LARAWAY LAKE DR SE
16	1931 LARAWAY LAKE DR SE
17	1915 LARAWAY LAKE DR SE
18	1891 LARAWAY LAKE DR SE
19*	1875 LARAWAY LAKE DR SE
20	1865 LARAWAY LAKE DR SE
21	1861 LARAWAY LAKE DR SE
22	1859 LARAWAY LAKE DR SE
23	1855 LARAWAY LAKE DR SE
24	6500 DONNEGAL LN SE
25	6484 DONNEGAL LN SE
	6400 DONNEGAL LN SE

Laraway Lake Proposed Special Assessment District boundary map.

*Data obtained from the Kent County Graphic Information System displays Parcel Number 19 as extending into the Laraway Lake.

PUBLIC IMPROVEMENTS
Act 188 of 1954

AN ACT to provide for the making of certain improvements by townships; to provide for paying for the improvements by the issuance of bonds; to provide for the levying of taxes; to provide for assessing the whole or a part of the cost of improvements against property benefited; and to provide for the issuance of bonds in anticipation of the collection of special assessments and for the obligation of the township on the bonds.

History: 1954, Act 188, Imd. Eff. May 5, 1954;—Am. 1974, Act 143, Imd. Eff. June 5, 1974;—Am. 1995, Act 139, Imd. Eff. July 10, 1995.

The People of the State of Michigan enact:

41.721 Public improvements by township board; bonds; special assessments to defray costs.

Sec. 1. The township board has the power to make an improvement named in this act, to provide for the payment of an improvement by the issuance of bonds as provided in section 15, and to determine that the whole or any part of the cost of an improvement shall be defrayed by special assessments against the property especially benefited by the improvement. The cost of engineering services and all expenses incident to the proceedings for the making and financing of the improvement shall be deemed to be a part of the cost of the improvement.

History: 1954, Act 188, Imd. Eff. May 5, 1954;—Am. 1974, Act 143, Imd. Eff. June 5, 1974;—Am. 1986, Act 180, Imd. Eff. July 8, 1986.

41.721a "Record owner" defined.

Sec. 1a. As used in this act, "record owner" means a person, sole proprietorship, partnership, association, firm, corporation, or other legal entity, possessed of the most recent fee title or a land contract vendee's interest in the land as shown by the records of the county register of deeds.

History: Add. 1986, Act 180, Imd. Eff. July 8, 1986.

41.722 Types of improvements authorized; approval; conditions.

Sec. 2. (1) The following improvements may be made under this act:

(a) The construction, improvement, and maintenance of storm or sanitary sewers or the improvement and maintenance of, but not the construction of new or expanded, combined storm and sanitary sewer systems.

(b) The construction, improvement, and maintenance of water systems.

(c) The construction, improvement, and maintenance of public roads.

(d) The acquisition, improvement, and maintenance of public parks.

(e) The construction, improvement, and maintenance of elevated structures for foot travel over roads in the township.

(f) The collection and disposal of garbage and rubbish.

(g) The construction, maintenance, and improvement of bicycle paths.

(h) The construction, maintenance, and improvement of erosion control structures or dikes.

(i) The planting, maintenance, and removal of trees.

(j) The installation, improvement, and maintenance of lighting systems.

(k) The construction, improvement, and maintenance of sidewalks.

(l) The eradication or control of aquatic weeds and plants.

(m) The construction, improvement, and maintenance of private roads.

(n) The construction, improvement, and maintenance of a lake, pond, river, stream, lagoon, or other body of water or of an improvement to the body of water. This subdivision includes, but is not limited to, dredging.

(o) The construction, improvement, and maintenance of dams and other structures that retain the waters of this state for recreational purposes.

(p) The construction, improvement, and maintenance of sound attenuation walls, pavement, or other sound mitigation treatments unless a written objection is filed in the same manner as provided under section 3 by the record owners of land constituting more than 20% of the total area in the proposed special assessment district. If a written objection is filed, then the township board shall not proceed with the improvement until a petition signed by the record owners of land constituting more than 50% of the total land area in the special assessment district as finally established is filed with the board.

(2) A road under the jurisdiction of either the state transportation department or the board of county road commissioners shall not be improved under this act without the written approval of the state transportation

department or the board of county road commissioners. As a condition to the granting of approval, the state transportation department or the board of county road commissioners may require 1 or more of the following:

(a) That all engineering with respect to the improvement be performed by the state transportation department or the board of county road commissioners.

(b) That all construction, including the awarding of contracts for construction, in connection with the improvement be pursuant to the specifications of the state transportation department or the board of county road commissioners.

(c) That the cost of the engineering and supervision be paid to the state transportation department or the board of county road commissioners from the funds of the special assessment district.

(3) A lake, pond, river, stream, lagoon, or other body of water under the jurisdiction of a county drain commissioner shall not be improved under this act without the written approval of the county drain commissioner of the county in which the lake, pond, river, stream, lagoon, or other body of water is located.

History: 1954, Act 188, Imd. Eff. May 5, 1954;—Am. 1958, Act 163, Eff. Sept. 13, 1958;—Am. 1964, Act 30, Imd. Eff. May 1, 1964;—Am. 1966, Act 116, Imd. Eff. June 22, 1966;—Am. 1974, Act 143, Imd. Eff. June 5, 1974;—Am. 1976, Act 148, Imd. Eff. June 16, 1976;—Am. 1986, Act 180, Imd. Eff. July 8, 1986;—Am. 1995, Act 139, Imd. Eff. July 10, 1995;—Am. 2002, Act 585, Imd. Eff. Oct. 14, 2002.

41.723 Written objections; petition; filing; signatures; determining record owners; determining sufficiency of petition; supplement to petition; validity of signatures.

Sec. 3. (1) The township board may proceed to carry out an improvement as provided in this act unless written objections to the improvement are filed with the township board at or before the hearing provided in section 4 by property owners as follows:

(a) For an improvement under section 2(1)(a), (b), (d), (e), (f), (h), (i), (j), (l), (n), or (o) by the record owners of land constituting more than 20% of the total land area in the proposed special assessment district.

(b) For an improvement under section 2(1)(c), (g), (k), or (m), by the record owners of land constituting more than 20% of the total frontage upon the road, bicycle path, or sidewalk.

(2) A township board may require the filing of a petition meeting the requirements of subsection (3) before proceeding with an improvement under this act.

(3) If written objections are filed as provided in subsection (1), or if the township board requires a petition before proceeding, the township board shall not proceed with the improvement until there is filed with the board a petition signed as follows:

(a) For an improvement under section 2(1)(a), (b), (d), (e), (f), (h), (i), (j), (l), (n), or (o) by the record owners of land constituting more than 50% of the total land area in the special assessment district as finally established by the township board.

(b) For an improvement under section 2(1)(c), (g), (k), or (m), by the record owners of land constituting more than 50% of the total frontage upon the road, bicycle path, or sidewalk.

(4) Record owners shall be determined by the records in the register of deeds' office as of the day of the filing of a petition, or if written objections are filed as provided in subsection (1), then on the day of the hearing. In determining the sufficiency of the petition, lands not subject to special assessment and lands within a public highway or alley shall not be included in computing frontage or an assessment district area. A filed petition may be supplemented as to signatures by the filing of an additional signed copy or copies of the petition. The validity of the signatures on a supplemental petition shall be determined by the records as of the day of filing the supplemental petition.

History: 1954, Act 188, Imd. Eff. May 5, 1954;—Am. 1957, Act 187, Imd. Eff. June 4, 1957;—Am. 1961, Act 143, Eff. Sept. 8, 1961;—Am. 1976, Act 113, Imd. Eff. May 14, 1976;—Am. 1976, Act 148, Imd. Eff. June 16, 1976;—Am. 1976, Act 332, Imd. Eff. Dec. 15, 1976;—Am. 1986, Act 180, Imd. Eff. July 8, 1986;—Am. 1995, Act 139, Imd. Eff. July 10, 1995.

41.724 Plans; cost estimate; resolution; designation of special assessment district; hearing; notice; periodic redeterminations of cost; objections; adding property to special assessment district; supplemental petition; filing by railroad companies; additional notice; affidavit of service.

Sec. 4. (1) Upon receipt of a petition or upon determination of the township board if a petition is not required under section 3, the township board, if it desires to proceed on the improvement, shall cause to be prepared plans describing the improvement and the location of the improvement with an estimate of the cost of the improvement on a fixed or periodic basis, as appropriate. Upon receipt of the plans and estimate, the township board shall order the same to be filed with the township clerk. If the township board desires to proceed with the improvement, the township board shall tentatively declare by resolution its intention to make the improvement and tentatively designate the special assessment district against which the cost of the

improvement or a designated part of the improvement is to be assessed.

(2) The township board shall fix a time and place to meet and hear any objections to the petition, if a petition is required, to the improvement, and to the special assessment district, and shall cause notice of the hearing to be given as provided in section 4a. The notice shall state that the plans and estimates are on file with the township clerk for public examination and shall contain a description of the proposed special assessment district. If periodic redeterminations of cost will be necessary without a change in the special assessment district, the notice shall state that such redeterminations may be made without further notice to record owners or parties in interest in the property.

(3) At the hearing, or any adjournment of the hearing which may be without further notice, the township board shall hear any objections to the petition, if a petition is required, to the improvement, and to the special assessment district. The township board may revise, correct, amend, or change the plans, estimate of cost, or special assessment district.

(4) Property shall not be added to the district unless notice is given as provided in section 4a, or by personal service upon the record owners of the property in the entire proposed special assessment district, and a hearing afforded to the record owners. If a petition is required because property is added to the special assessment district which makes the original petition insufficient, then a supplemental petition shall be filed containing sufficient additional signatures of record owners. If the nature of the improvement to be made is such that a periodic redetermination of costs will be necessary without a change in the special assessment district boundaries, the township board shall include in its estimate of costs any projected incremental increases. If at any time during the term of the special assessment district an actual incremental cost increase exceeds the estimate therefor by 10% or more, notice shall be given as provided in section 4a and a hearing afforded to the record owners of property to be assessed.

(5) Railroad companies shall file in writing with the secretary of state the name and post office address of the person upon whom may be served notice of any proceedings under this act. After the name and address has been filed, notice in addition to the notice by publication shall be given to the person by registered mail, or personally, within 5 days after the first publication of the notice. An affidavit of the service shall be filed by the township board with the proof of publication of the notice.

History: 1954, Act 188, Imd. Eff. May 5, 1954;—Am. 1974, Act 143, Imd. Eff. June 5, 1974;—Am. 1986, Act 180, Imd. Eff. July 8, 1986.

41.724a Notice of hearings in special assessment proceedings.

Sec. 4a. (1) If special assessments are made against property, notice of hearings in the special assessment proceedings shall be given as provided in this section.

(2) Notice of hearings in special assessment proceedings shall be given to each record owner of, or party in interest in, property to be assessed whose name appears upon the last township tax assessment records by first-class mail addressed to the record owner or party in interest at the address shown on the tax records, at least 10 days before the date of the hearing. The last township tax assessment records means the last assessment roll for ad valorem tax purposes that was reviewed by the township board of review, as supplemented by any subsequent changes in the names or the addresses of the owners or parties listed on that roll. If a record owner's name does not appear on the township tax assessment records, then notice shall be given by first-class mail addressed to the record owner at the address shown by the records of the county register of deeds at least 10 days before the date of the hearing. Notice shall also be published twice before the hearing in a newspaper circulating in the township. The first publication shall be at least 10 days before the date of the hearing. If a published notice includes a list of the property identification numbers of the property to be assessed, that list may provide either the individual property identification number for each parcel of property to be assessed or 1 or more sequential sets of property identification numbers, which include each parcel of property to be assessed. If a published notice includes a list of the property identification numbers of the property to be assessed, that published notice shall also include either a map depicting the area of the proposed special assessment district or a written description of the proposed special assessment district.

(3) If a person whose name and correct address do not appear upon the last township tax assessment records claims an interest in real property, that person shall immediately file his or her name and address with the township supervisor. This filing is effective only for the purpose of establishing a record of the names and addresses of those persons entitled to notice of hearings in special assessment proceedings. The supervisor shall immediately enter on the tax assessment records any changes in the names and addresses of record owners or parties in interest filed with the supervisor and at all times shall keep the tax assessment records current, complete, and available for public inspection.

(4) A township officer required to give notice of a hearing in special assessment proceedings may rely upon the last township tax assessment records in giving notice of the hearing by mail. The method of giving

notice by mail as provided in this section is declared to be the method that is reasonably certain to inform those to be assessed of the special assessment proceedings.

(5) Failure to give notice as required in this section shall not invalidate an entire assessment roll, but only the assessment on property affected by the lack of notice. A special assessment shall not be declared invalid as to any property if the owner or the party in interest of that property actually received notice, waived notice, or paid any part of the assessment. If an assessment is declared void by court decree or judgment, a reassessment against the property may be made.

(6) A special assessment hearing held before June 5, 1974 is validated, insofar as any notice of hearing is concerned, if notice was given by mail to the owners or parties in interest whose names appeared at the time of mailing on the last township tax assessment records. Any such special assessment hearing is validated as to any owner or party in interest who actually received notice of hearing, waived the notice, or paid any part of the special assessment.

History: Add. 1974, Act 143, Imd. Eff. June 5, 1974;—Am. 1986, Act 180, Imd. Eff. July 8, 1986;—Am. 2000, Act 331, Imd. Eff. Dec. 14, 2000.

41.725 Approval or determination by township board; levy of special assessment.

Sec. 5. (1) If, after the hearing provided for in section 4, the township board desires to proceed with the improvement, the township board shall approve or determine by resolution all of the following:

- (a) The completion of the improvement.
- (b) The plans and estimate of cost as originally presented or as revised, corrected, amended, or changed.
- (c) The sufficiency of the petition for the improvement if a petition is required. After this determination, the sufficiency of the petition is not subject to attack except in an action brought in a court of competent jurisdiction within 30 days after the adoption of the resolution determining the sufficiency of the petition.
- (d) The special assessment district including the term of the special assessment district's existence. If the nature of the improvement to be made is such that a periodic redetermination of cost will be necessary without a change in the special assessment district boundaries, the township board shall state that in the resolution and shall set the dates when the redeterminations shall be made. After finally determining the special assessment district, the township board shall direct the supervisor to make a special assessment roll in which are entered and described all the parcels of land to be assessed, with the names of the respective record owners of each parcel, if known, and the total amount to be assessed against each parcel of land, which amount shall be the relative portion of the whole sum to be levied against all parcels of land in the special assessment district as the benefit to the parcel of land bears to the total benefit to all parcels of land in the special assessment district. When the supervisor completes the assessment roll, the supervisor shall affix to the roll his or her certificate stating that the roll was made pursuant to a resolution of the township board adopted on a specified date, and that in making the assessment roll the supervisor, according to his or her best judgment, has conformed in all respects to the directions contained in the resolution and the statutes of this state.

(2) After December 31, 1998, an ad valorem special assessment levied under this act shall be levied on the taxable value of the property assessed.

(3) If the levy of an ad valorem special assessment on the property's taxable value is found to be invalid by a court of competent jurisdiction, the levy of the ad valorem special assessment shall be levied on the property's state equalized value.

(4) As used in this section and section 15b, "taxable value" means that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: 1954, Act 188, Imd. Eff. May 5, 1954;—Am. 1974, Act 143, Imd. Eff. June 5, 1974;—Am. 1986, Act 180, Imd. Eff. July 8, 1986;—Am. 1998, Act 544, Imd. Eff. Jan. 20, 1999.

41.726 Filing and review of special assessment roll; hearing; notice; adjournments; objections; confirmation, referral, or annulment; endorsement; finality; action contesting assessment.

Sec. 6. (1) When a special assessment roll is reported by the supervisor to the township board, the assessment roll shall be filed in the office of the township clerk. Before confirming the assessment roll, the township board shall appoint a time and place when it will meet, review, and hear any objections to the assessment roll. The township board shall give notice of the hearing and the filing of the assessment roll as required by section 4a.

(2) A hearing under this section may be adjourned from time to time without further notice. A person objecting to the assessment roll shall file the objection in writing with the township clerk before the close of the hearing or within such further time as the township board may grant. After the hearing the township

board, at the same or at a subsequent meeting, may confirm the special assessment roll as reported to the township board by the supervisor or as amended or corrected by the township board; may refer the assessment roll back to the supervisor for revision; or may annul it and direct a new roll to be made.

(3) If a special assessment roll is confirmed, the township clerk shall endorse on the assessment roll the date of the confirmation. After the confirmation of the special assessment roll, all assessments on that assessment roll shall be final and conclusive unless an action contesting an assessment is filed in a court of competent jurisdiction within 30 days after the date of confirmation.

History: 1954, Act 188, Imd. Eff. May 5, 1954;—Am. 1974, Act 143, Imd. Eff. June 5, 1974;—Am. 1986, Act 180, Imd. Eff. July 8, 1986.

41.727 Payment of special assessments in installments; amount of installment; extension; due dates; interest on unpaid installments; lien; limitation; statement of amount; payment of future due installments; delinquent installment; penalty.

Sec. 7. (1) The township board may provide that special assessments are payable in 1 or more installments, but the amount of an installment shall not be less than 1/2 of any subsequent installment. The amount of each installment, if more than 1, shall not be extended upon the special assessment roll until after confirmation of that assessment roll. Subject to the provisions of section 4(4), the amount of installments for improvements subject to periodic cost revision may be extended upon the special assessment roll by the township board without additional public hearings or public notice, provided that additional property is not added to the special assessment roll.

(2) The first installment of a special assessment is due on or before the time after confirmation of that special assessment roll as determined by the township board. Subsequent installments are due at intervals of 12 months from the due date of the first installment or from a date determined by the township board.

(3) All unpaid installments, prior to their transfer to the township tax roll as provided by this act, shall bear interest, payable annually on each installment due date, at a rate to be set by the township board, not exceeding 1% above the average rate of interest borne by special assessment bonds issued by the township in anticipation of all or part of the unpaid installments; or not exceeding 1% above the average rate of interest borne by bonds issued by a county, drainage district, or authority if the unpaid installments are to be applied to the payment of a contract obligation of the township to the county or authority or to the payment of an assessment obligation of the township to the drainage district; or, if bonds are not issued by the township, a county, a drainage district, or an authority, not exceeding 8% per annum, commencing in each case from a date fixed by the township board.

(4) Future due installments of an assessment against any parcel of property may be paid to the township treasurer at any time in full, with interest accrued through the month in which the final installment is paid.

(5) If the township board provides that a special assessment is payable in installments under subsection (1), the amount of any lien on the parcel of property assessed for that special assessment is limited to each individual installment and shall not attach to the property assessed until that individual installment is due as provided in subsection (2).

(6) Upon written request, the township treasurer shall provide a statement of the amount of any lien under subsection (1) and (2) on the property, with interest accrued through the end of the month in which the statement is provided.

(7) If an installment of a special assessment is not paid when due, then the installment shall be considered to be delinquent and there shall be collected, in addition to interest as provided by this section, a penalty at the rate of not more than 1% for each month, or fraction of a month, that the installment remains unpaid before being reported to the township board for reassessment upon the township tax roll.

History: 1954, Act 188, Imd. Eff. May 5, 1954;—Am. 1957, Act 187, Imd. Eff. June 4, 1957;—Am. 1974, Act 143, Imd. Eff. June 5, 1974;—Am. 1979, Act 173, Imd. Eff. Dec. 13, 1979;—Am. 1981, Act 57, Imd. Eff. June 4, 1981;—Am. 1986, Act 180, Imd. Eff. July 8, 1986;—Am. 2014, Act 429, Eff. Jan. 15, 2015.

41.728 Special assessments to constitute lien; limitation; character and effect.

Sec. 8. (1) Except as otherwise provided in subsection (2), all special assessments contained in any special assessment roll shall, from the date of confirmation of that roll, constitute a lien upon the respective parcels of property assessed.

(2) If the township board provides that a special assessment is payable in installments under section 7(1), the amount of any lien on the parcel of property assessed for that special assessment is limited to each individual installment and shall not attach to the property assessed until that individual installment is due as provided in section 7(2).

(3) A lien for a special assessment under this act shall be of the same character and effect as a lien created

for township taxes and shall include accrued interest and penalties.

(4) No judgment or decree or any act of the township board vacating a special assessment shall destroy or impair a lien of the township upon the property assessed for the amount of the assessment that may be equitably charged against that property, or through a regular mode of proceeding may be lawfully assessed on that property.

History: 1954, Act 188, Imd. Eff. May 5, 1954;—Am. 2014, Act 561, Imd. Eff. Jan 15, 2015.

41.729 Special assessments; collection by township treasurer, report of delinquencies.

Sec. 9. When any special assessment roll shall be confirmed the township board shall direct the assessments made therein to be collected. The township clerk shall thereupon deliver to the township treasurer such special assessment roll, to which he shall attach his warrant commanding the township treasurer to collect the assessments therein in accordance with the directions of the township board in respect thereto. Said warrant shall further require the township treasurer on the 1st day of September following the date when any such assessments or any part thereof have become due to submit to the township board a sworn statement setting forth the names of the persons delinquent, if known, a description of the parcels of land upon which there are delinquent assessments and the amount of such delinquency, including accrued interest and penalties computed to September 1 of such year. Upon receiving such special assessment roll and warrant the treasurer shall proceed to collect the several amounts assessed therein as the same shall become due.

History: 1954, Act 188, Imd. Eff. May 5, 1954.

41.729a Deferred assessment; application; evidence of hardship; ordinance; deferred assessment as recorded lien.

Sec. 9a. (1) An owner of property who by reason of hardship is unable to contribute to the cost of an assessment for an improvement authorized in section 2(1)(a), (b), (c), (g), (h), or (n) may have the assessment deferred by application to the assessing officer. Upon receipt of evidence of hardship, the township may defer partial or total payment of the assessment.

(2) The township board may enact an ordinance to define hardship and to permit deferred or partial payment of an assessment pursuant to this section. As a condition of granting the deferred or partial payment of an assessment, the township board shall require that any deferred assessment constitute a recorded lien against the property, subject to section 8(2).

History: Add. 1976, Act 148, Imd. Eff. June 16, 1976;—Am. 1995, Act 139, Imd. Eff. July 10, 1995;—Am. 2014, Act 561, Imd. Eff. Jan. 15, 2015.

41.730 Special assessments; delinquencies, reassessment.

Sec. 10. In case the treasurer shall, as above provided, report as delinquent any assessment or part thereof, the township board shall certify the same to the supervisor, who shall reassess on the annual township tax roll of such year in a column headed "special assessments" the sum so delinquent, with interest and penalties to September 1 of such year, and an additional penalty of 6% of the total amount. Thereafter the statutes relating to township taxes shall be applicable to such reassessments.

History: 1954, Act 188, Imd. Eff. May 5, 1954.

41.731 Division of lands; apportionment of uncollected assessments.

Sec. 11. Should any parcel of land be divided after a special assessment thereon has been confirmed, and before the collection thereof, the township board may require the supervisor to apportion the uncollected amounts between the several divisions thereof and the report of such apportionment when confirmed by the township board shall be conclusive upon all parties: Provided, That if the interested parties do not agree in writing to such apportionment, then before such confirmation notice of hearing shall be given to all the interested parties, either by personal service or by publication as above provided in case of an original assessment roll.

History: 1954, Act 188, Imd. Eff. May 5, 1954.

41.732 Special assessment roll; insufficiency, additional pro rata assessments; surplus, refunds.

Sec. 12. Should the assessments in any special assessment roll prove insufficient for any reason, including the noncollection thereof, to pay for the improvement for which they were made or to pay the principal and interest on the bonds issued in anticipation of the collection thereof, then the township board shall make additional pro rata assessments to supply the deficiency, but the total amount assessed against any parcel of land shall not exceed the value of the benefits received from the improvement. Should the total amount

collected on assessments prove larger than necessary by more than 5% of the original roll, then the surplus shall be prorated among the properties assessed in accordance with the amount assessed against each and applied toward the payment of the next township tax levied against such properties, respectively, or if there be no such tax then it shall be refunded to the persons who are the respective record owners of the properties on the date of the passage of the resolution ordering such refund. Any such surplus of 5% or less may be paid into the township contingent funds disposed of as above provided.

History: 1954, Act 188, Imd. Eff. May 5, 1954.

41.733 Illegal special assessment; reassessment proceedings.

Sec. 13. Whenever any special assessment shall, in the opinion of the township board, be invalid by reason of irregularities or informalities in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the township board shall, whether the improvement has been made or not, whether any part of the assessment has been paid or not, have power to proceed from the last step at which the proceedings were legal and cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever an assessment or any part thereof levied upon any premises has been so set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment.

History: 1954, Act 188, Imd. Eff. May 5, 1954.

41.734 Exempt corporations; agreement to pay assessment.

Sec. 14. The governing body of any public or private corporation whose lands are exempt by law may, by resolution, agree to pay the special assessments against such lands, and in such case the assessment, including all the installments thereof, shall be a valid claim against such corporation.

History: 1954, Act 188, Imd. Eff. May 5, 1954.

41.734a Assessment on platted corner lots; payment of portion by governing body.

Sec. 14a. The governing body of any township, by resolution, may agree to pay up to 1/3 of the cost of the special assessment levied against any platted corner lot for the payment of public improvements authorized under the provisions of this act.

History: Add. 1959, Act 196, Eff. Mar. 19, 1960.

41.735 Bonds.

Sec. 15. The township board may borrow money and issue the bonds of the township in anticipation of the collection of special assessments to defray all or any part of the cost of any improvement made under this act after the special assessment roll is confirmed. Bonds issued under this section shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued. Bonds may be issued in anticipation of the collection of special assessments levied in respect to 1 or more public improvements, but no special assessment district shall be compelled to pay the obligation of any other special assessment district. The township board may pledge the full faith and credit of the township for the prompt payment of the principal of and interest on the bonds authorized under this section. The issuance of bonds under this section is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1954, Act 188, Imd. Eff. May 5, 1954;—Am. 1974, Act 143, Imd. Eff. June 5, 1974;—Am. 2002, Act 229, Imd. Eff. Apr. 29, 2002.

41.735a Township improvement revolving fund; advances; interest.

Sec. 15a. As an alternate method of defraying the cost of an improvement made under this act, after the special assessment roll for the improvement is confirmed, the township board may pay the cost of the improvement from the township improvement revolving fund. The amount advanced shall not exceed the amount the board anticipates will be collected by the special assessments. The amount advanced by the township shall bear interest at a rate not exceeding 5% per annum.

History: Add. 1956, Act 109, Eff. Aug. 11, 1956;—Am. 1986, Act 180, Imd. Eff. July 8, 1986.

41.735b Township improvement revolving fund; transfer of funds; amount.

Sec. 15b. The township board of any township by resolution may create and designate a fund to be known as the township improvement revolving fund. Before January 1, 1999, the township board may transfer to the township improvement revolving fund from the general fund of the township in any 1 year an amount not exceeding 2 mills of the state equalized valuation of the real and personal property in the township and in each subsequent year may transfer from the general fund to the township improvement revolving fund until

that fund equals 5 mills of the state equalized valuation of the real and personal property in the township. After December 31, 1998, the township board may transfer to the township improvement revolving fund from the general fund of the township in any 1 year an amount not exceeding 2 mills of the taxable value of the real and personal property in the township and in each subsequent year may transfer from the general fund to the township improvement revolving fund until that fund equals 5 mills of the taxable value of the real and personal property in the township. All interest charges collected are a part of the township improvement revolving fund. The township board may transfer funds from the township improvement revolving fund to the general fund when, in the judgment of the board, funds should be transferred.

History: Add. 1956, Act 109, Eff. Aug. 11, 1956;—Am. 1998, Act 544, Imd. Eff. Jan. 20, 1999.

41.735c Special assessments to defray certain obligations.

Sec. 15c. The township board may determine that the whole or any part of an obligation of the township assessed or contracted for pursuant to Act No. 342 of the Public Acts of 1939, as amended, being sections 46.171 to 46.187 of the Michigan Compiled Laws; Act No. 185 of the Public Acts of 1957, as amended, being sections 123.731 to 123.786 of the Michigan Compiled Laws; Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.623 of the Michigan Compiled Laws; and Act No. 233 of the Public Acts of 1955, as amended, being sections 124.281 to 124.294 of the Michigan Compiled Laws, shall be defrayed by special assessments against the property specially benefited thereby and in such case, the special assessments may be levied and collected in accordance with this act except as herein provided. The requirements of section 3 with respect to requiring a petition and section 4 with respect to the hearing therein required shall not apply to any special assessments levied and collected in accordance with this section and the above described acts.

History: Add. 1974, Act 143, Imd. Eff. June 5, 1974.

41.736 Public Improvements; powers granted to townships.

Sec. 16. The powers herein granted may be exercised by any township and shall be in addition to the powers granted by any other statute.

History: 1954, Act 188, Imd. Eff. May 5, 1954;—Am. 1961, Act 14, Imd. Eff. May 9, 1961.

41.737 Scope of act.

Sec. 17. The provisions of this act shall not apply to any obligations issued or assessments levied except in accordance with the provisions of this act after the effective date thereof, and shall not validate any proceedings or action taken by any township prior to the effective date of this act.

History: 1954, Act 188, Imd. Eff. May 5, 1954.

41.738 Use of interest earned from investments, money from bond proceeds, or money from interest and penalties on unpaid special assessment.

Sec. 18. Interest earned from the investment of money collected under a special assessment under this act or of money received as bond proceeds from a bond issued under this act, or money from interest or penalties charged and collected on an unpaid special assessment under this act shall only be used for the following:

- (a) To pay for the improvement for which the special assessment is assessed.
- (b) To pay the principal and interest of bonds that are issued for the improvement for which the special assessment is assessed.
- (c) To pay the principal and interest of an advance from the township that is used for the improvement for which the special assessment is assessed.

History: Add. 1986, Act 180, Imd. Eff. July 8, 1986.



CASCADE CHARTER TOWNSHIP

2865 Thornhills SE Grand Rapids, Michigan 49546-7140

Date: September 9, 2020
To: Cascade Charter Township Board
From: Supervisor Rob Beahan
Subject: Appointments to Various Boards and Commissions

I ask that the Township Board confirm the following appointments to the Boards and Commissions of Cascade Charter Township:

Parks Committee

Name

Term

Ginny Wanty

Partial Three-year Term (Exp. 12/31/22)

Ginny Wanty, former teacher and assistant principal, most recently served as the MSU Extension Master Naturalist Coordinator and also the Co-leader of the West MI Conservation Network. She also served on the Ada Parks and Rec Committee for 5 years.

Joe Engel

Partial Three-year Term (Exp. 12/31/22)

Joe Engel is the Executive Director of the Land Conservancy of West Michigan and served on the board for three years prior to being named Executive Director in 2016. For many years Joe practiced law and was an attorney at Smith Haughey

Both Ginny and Joe are Cascade residents and have strong ties to the community



CASCADE CHARTER TOWNSHIP

2865 Thornhills SE Grand Rapids, Michigan 49546-7140

Date: September 9th, 2020
To: Supervisor Beahan and Township Board Members
From: Ben Swayze, Township Manager
Subject: Brownfield Redevelopment Authority – Consulting Proposal

FACTS:

The Township has recently been approached by a local developer about an opportunity to support a development project on a contaminated site through a Brownfield Redevelopment Authority. Public Act No. 381 of 1996 (“Act” 381) authorizes local units of government to establish a Brownfield Redevelopment Authority (BRA) which can use Tax Increment Financing (TIF) to help develop contaminated, blighted and abandoned properties and return them to the tax rolls. The BRA is also then eligible for grants and loans from the Michigan Department of Environment, Great Lakes and Energy (EGLE) for projects that promote economic development and reuse of qualified Brownfield properties.

BRA TIF plans work similarly to our DDA TIF plan. When a contaminated property is redeveloped and the property value increase, the difference between taxes on the base value and taxes on the new value is the tax increment. The tax increment can be reimbursed to a developer or other investor for eligible redevelopment costs.

In order to consider individual projects for BRA funding, whether through a grant or a loan program, the Township must first set-up a local BRA. We have requested a proposal from Fishbeck to assist in establishing a BRA. Their Brownfield Program Specialist, Roman Wilson, formerly worked in the Brownfield program at the State of Michigan.

Attached for your review are:

- Brownfield Consulting Services Contract from Fishbeck
- Brownfield Redevelopment Program Fact Sheets from EGLE
- Environmental Mapper site maps from EGLE (potential project sites)
- Robinson Dental – Redevelopment Fact Sheet
- Public Act No. 381 of 1996

ANALYSIS & CONCLUSIONS:

A BRA could be a useful economic development tool for Cascade Township. Included in the packet is several Environmental Mapper sheets from EGLE that identify sites of potential contamination within the Township. In addition, the program can be used to assist on development costs (i.e. demolition) on sites with functionally obsolete structures.

If approved, Fishbeck would offer the following services in the establishment of the Township BRA:

- Help draft a resolution of intent to establish a BRA and assist with the preparation and coordination of public notices for a public hearing on the resolution
- Attend the Township public hearing and participate, as needed
- Guide the Township on the filing of the resolution with the State of Michigan
- Provide guidance to the Township Board on BRA member appointments
- Attend and participate in the first BRA organizational meeting
- Assist the BRA with the development of bylaws and draft a resolution approving the BRA bylaws
- Prepare a BRA incentive policy and procedure document

It should be noted that action today is only to engage Fishbeck in assistance for developing a BRA, the Township Board is not being asked to approve a BRA or approve Robinson Dental for a BRA project. Information on Robinson Dental was provided to give the Township Board an idea of the types of project applications that could be expected. It is anticipated that Robinson Dental would apply for BRA development assistance if/once the Township establishes a BRA.

The Governance Committee has reviewed the BRA program at it's August meeting, as well as doing a cursory review of the Robinson Dental fact sheet. It was recommended that the Township Board approve the proposal from Fishbeck for Brownfield Consulting Services. Roman Wilson from Fishbeck will be in attendance at the meeting and will be able to answer any questions the Township Board may have.

FINANCIAL CONSIDERATIONS:

The proposal from Fishbeck is \$3,950 and the cost will come from the budgeted "special projects" line item. Additional costs will be incurred, including newspaper publications, mailing of notices and staff time.

If/once the BRA is established, a separate BRA fund will be made in the budget. Future costs will come from this fund, which can be funded through TIF funds, as well as administrative stipends from grants and loans.

RECOMMENDED ACTION:

Approve the proposal for Brownfield Consulting Services from Fishbeck

June 9, 2020

Sandra Korhorn
DDA/Economic Development Director
Cascade Charter Township
2865 Thornhills Avenue, SE
Grand Rapids, MI, 49546-7192

**Proposal for Professional Services
Brownfield Consulting Services – Brownfield Redevelopment Authority
Cascade Charter Township, Cascade, Michigan**

Dear Sandra:

Fishbeck is pleased to provide this proposal for brownfield consulting services to assist Cascade Charter Township with the formation of a Brownfield Redevelopment Authority (BRA). Creation of a BRA will enable the Township to offer new economic development opportunities through brownfield redevelopment initiatives which serve to revitalize the community's vacant, underutilized, and contaminated properties.

Scope of Services

To establish a BRA, Fishbeck will work with the Township to conduct the following:

- Help draft a resolution of intent to establish a BRA and assist with the preparation and coordination of public notices for a public hearing on the resolution.
- Attend the Township public hearing and participate, as needed.
- Guide the Township on the filing of the resolution with the State of Michigan.
- Provide guidance to the Township on board member appointments.
- Attend and participate in the first BRA organizational meeting.
- Assist the BRA with the development of bylaws and draft a resolution approving the BRA bylaws.
- Prepare a BRA incentive policy and procedure document.

Professional Services Fees and Authorization

Fishbeck proposes to perform the scope of services described above for a lump sum fee of Three Thousand Nine Hundred Fifty Dollars (\$3,950).

Attached is our Professional Services Agreement. If you concur with our scope of services, please sign in the space provided and return the executed contract to the attention of Ariane Savoy (asavoy@fishbeck.com). This proposal is made subject to the attached Terms and Conditions for Professional Services. Invoices will be submitted every four weeks and payment is due upon receipt.

Schedule

Within one week of authorization to proceed, Fishbeck will coordinate initial steps with the Township and develop a timeline to complete the process of forming the BRA.

Sandra Korhorn
June 9, 2020

Fishbeck | Page 2

We appreciate the opportunity to work with the Township on this project. If you have any questions regarding this proposal or any Fishbeck services, please contact me at 616.464.3876 or rwilson@fishbeck.com.

Sincerely,

A handwritten signature in black ink that reads "Roman A. Wilson". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Roman A. Wilson
Brownfield Program Manager

Attachments
By email

Professional Services Agreement

PROJECT NAME Cascade Charter Township Brownfield Consulting Services – Brownfield Redevelopment Authority (BRA)
FISHBECK CONTACT Roman Wilson
CLIENT Cascade Charter Township
CLIENT CONTACT Sandra Korhorn
ADDRESS 2865 Thornhills Avenue, SE, Grand Rapids, MI, 49546-7192

Client hereby requests and authorizes Fishbeck to perform the following:

SCOPE OF SERVICES:

Brownfield consulting services, as outlined in the attached Fishbeck proposal letter dated June 9, 2020.

AGREEMENT. The Agreement consists of this page and the documents that are checked:

- Terms and Conditions for Professional Services, attached.
- Proposal dated June 9, 2020.
- Other:

METHOD OF COMPENSATION:

- Lump Sum for Defined Scope of Services
- Hourly Billing Rates plus Reimbursable Expenses
- Other:

Budget for Above Scope of Services:

Three Thousand Nine Hundred and Fifty Dollars (\$3,950)

ADDITIONAL PROVISIONS (IF ANY): None.

APPROVED FOR:

Cascade Charter Township

BY: _____
TITLE: _____
DATE: _____

ACCEPTED FOR:

Fishbeck

BY: Michael W. Collins
TITLE: Senior Vice President
DATE: June 9, 2020

1. **METHOD OF AUTHORIZATION.** Client may authorize Fishbeck to proceed with work either by signing a Professional Services Agreement or by issuance of an acknowledgment, confirmation, purchase order, or other communication. Regardless of the method used, these Terms and Conditions shall prevail as the basis of Client's authorization to Fishbeck. Any Client document or communication in addition to or in conflict with these Terms and Conditions is rejected.
2. **CLIENT RESPONSIBILITIES.** Client shall provide all criteria and full information as to requirements for the Project and designate in writing a person with authority to act on Client's behalf on all matters concerning the Project. If Fishbeck's services under this Agreement do not include full-time construction observation or review of Contractor's performance, Client shall assume responsibility for interpretation of contract documents and for construction observation, and shall waive all claims against Fishbeck that may be in any way connected thereto.
3. **HOURLY BILLING RATES.** Unless stipulated otherwise, Client shall compensate Fishbeck at hourly billing rates in effect when services are provided by Fishbeck employees of various classifications.
4. **REIMBURSABLE EXPENSES.** Those costs incurred on or directly for Client's Project. Reimbursement shall be at Fishbeck's current rate for mileage for service vehicles and automobiles, special equipment, and copying, printing, and binding. Reimbursement for commercial transportation, meals, lodging, special fees, licenses, permits, insurances, etc., and outside technical or professional services shall be on the basis of actual charges plus 10 percent.
5. **OPINIONS OF COST.** Any opinions of probable construction cost and/or total project cost provided by Fishbeck will be on a basis of experience and judgment, but since it has no control over market conditions or bidding procedures, Fishbeck cannot warrant that bids or ultimate construction or total project costs will not vary from such estimates.
6. **PROFESSIONAL STANDARDS; WARRANTY.** The standard of care for services performed or furnished by Fishbeck will be the care and skill ordinarily used by members of Fishbeck's profession practicing under similar circumstances at the same time and in the same locality. Fishbeck makes no warranties, express or implied, under this Agreement or otherwise, in connection with Fishbeck's services.
7. **TERMINATION.** Either Client or Fishbeck may terminate this Agreement by giving ten days' written notice to the other party. In such event, Client shall pay Fishbeck in full for all work previously authorized and performed prior to the effective date of termination, plus (at the discretion of Fishbeck) a termination charge to cover finalization work necessary to bring ongoing work to a logical conclusion. Such charge shall not exceed 30 percent of all charges previously incurred. Upon receipt of such payment, Fishbeck will return to Client all documents and information which are the property of Client.
8. **SUBCONTRACTORS.** Fishbeck may engage subcontractors on behalf of Client to perform any portion of the services to be provided by Fishbeck hereunder.
9. **PAYMENT TO FISHBECK.** Invoices will be issued every four weeks, payable upon receipt, unless otherwise agreed. Interest of 1 percent per four-week period will be payable on all amounts not paid within 28 days from date of invoice, payment thereafter to be applied first to accrued interest and then to the principal unpaid amount. Any attorney's fees or other costs incurred in collecting any delinquent amount shall be paid by Client.

Client agrees to pay on a current basis, in addition to any proposal or contract fee understandings, all taxes including, but not limited to, sales taxes on services or related expenses which may be imposed on Fishbeck by any governmental entity.

If Client directs Fishbeck to invoice another, Fishbeck will do so, but Client agrees to be ultimately responsible for Fishbeck's compensation until Client provides Fishbeck with that third party's written acceptance of all terms of this Agreement and until Fishbeck agrees to the substitution.

In addition to any other remedies Fishbeck may have, Fishbeck shall have the absolute right to cease performing any basic or additional services in the event payment has not been made on a current basis.

10. **HAZARDOUS WASTE.** Fishbeck has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, or otherwise dangerous substance or condition at any site, and its compensation hereunder is in no way commensurate with the potential risk of injury or loss that may be caused by exposure to such substances or conditions. Fishbeck shall not be responsible for any alleged contamination, whether such contamination occurred in the past, is occurring presently, or will occur in the future, and the performance of services hereunder does not imply risk-sharing on the part of Fishbeck.
11. **LIMITATION OF LIABILITY.** To the fullest extent permitted by law, Fishbeck's total liability to Client for any cause or combination of causes, which arise out of claims based upon professional liability errors or omissions, whether based upon contract, warranty, negligence, strict liability, or otherwise is, in the aggregate, limited to the greater of \$250,000 or the amount of the fee earned under this Agreement.

To the fullest extent permitted by law, Fishbeck's total liability to Client for any cause or combination of causes, which arise out of claims for which Fishbeck is covered by insurance other than professional liability errors and omissions, whether based upon contract, warranty, negligence, strict liability, or otherwise is, in the aggregate, limited to the total insurance proceeds paid on behalf of or to Fishbeck by Fishbeck's insurers in settlement or satisfaction of Client's claims under the terms and conditions of Fishbeck's insurance policies applicable thereto.

Higher limits of liability may be considered upon Client's written request, prior to commencement of services, and agreement to pay an additional fee.

12. **DELEGATED DESIGN.** Client recognizes and holds Fishbeck harmless for the performance of certain components of the Project which are traditionally specified to be designed by the Contractor.
13. **INSURANCE.** Client shall cause Fishbeck and Fishbeck’s consultants, employees, and agents to be listed as additional insureds on all commercial general liability and property insurance policies carried by Client which are applicable to the Project. Client shall also provide workers’ compensation insurance for Client’s employees. Client agrees to have their insurers endorse these insurance policies to reflect that, in the event of payment of any loss or damages, subrogation rights under this Agreement are hereby waived by the insurer with respect to claims against Fishbeck.

Upon request, Client and Fishbeck shall each deliver to the other certificates of insurance evidencing their coverages.

Client shall require Contractor to purchase and maintain commercial general liability and other insurance as specified in the contract documents and to cause Fishbeck and Fishbeck’s consultants, employees, and agents to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project. Contractor must agree to have their insurers endorse these insurance policies to reflect that, in the event of payment of any loss or damages, subrogation rights under this Agreement are hereby waived by the insurer with respect to claims against Fishbeck.

14. **INDEMNIFICATION.** Fishbeck will defend, indemnify, and hold Client harmless from any claim, liability, or defense cost for injury or loss sustained by any party from exposures to the extent caused by Fishbeck’s negligence or willful misconduct. Client agrees to defend, indemnify, and hold Fishbeck harmless from any claim, liability, or defense cost for injury or loss sustained by any party from exposures allegedly caused by Fishbeck’s performance of services hereunder, except for injury or loss to the extent caused by the negligence or willful misconduct of Fishbeck. These indemnities are subject to specific limitations provided for in this Agreement.
15. **CONSEQUENTIAL DAMAGES.** Client and Fishbeck waive consequential damages for claims, disputes, or other matters in question relating to this Agreement including, but not limited to, loss of business.
16. **LEGAL EXPENSES.** If either Client or Fishbeck makes a claim against the other as to issues arising out of the performance of this Agreement, the prevailing party will be entitled to recover its reasonable expenses of litigation, including reasonable attorney’s fees. If Fishbeck brings a lawsuit against Client to collect invoiced fees and expenses, Client agrees to pay Fishbeck’s reasonable collection expenses including attorney fees.
17. **OWNERSHIP OF WORK PRODUCT.** Fishbeck shall remain the owner of all drawings, reports, and other material provided to Client, whether in hard copy or electronic media form. Client shall be authorized to use the copies provided by Fishbeck only in connection with the Project. Any other use or reuse by Client or others for any purpose whatsoever shall be at Client’s risk and full legal responsibility, without liability to Fishbeck. Client shall defend, indemnify, and hold harmless Fishbeck from all claims, damages, losses, and expenses, including attorney’s fees arising out of or resulting therefrom.
18. **ELECTRONIC MEDIA.** Data, reports, drawings, specifications, and other material and deliverables may be transmitted to Client in either hard copy, digital, or both formats. If transmitted electronically, and a discrepancy or conflict with the electronically transmitted version occurs, the hard copy in Fishbeck’s files used to create the digital version shall govern. If a hard copy does not exist, the version of the material or document residing on Fishbeck’s computer network shall govern. Fishbeck cannot guarantee the longevity of any material transmitted electronically nor can Fishbeck guarantee the ability of the Client to open and use the digital versions of the documents in the future.
19. **GENERAL CONSIDERATIONS.** Client and Fishbeck each are hereby bound and the partners, successors, executors, administrators, and legal representatives of Client and Fishbeck are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

Neither Client nor Fishbeck shall assign this Agreement without the written consent of the other.

Neither Client nor Fishbeck will have any liability for nonperformance caused in whole or in part by causes beyond Fishbeck’s reasonable control. Such causes include, but are not limited to, Acts of God, civil unrest and war, labor unrest and strikes, acts of authorities, and events that could not be reasonably anticipated.

This Agreement shall be governed by the law of the principal place of business of Fishbeck.

This Agreement constitutes the entire agreement between Client and Fishbeck and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

End of Terms and Conditions for Professional Services



ACT 381 BROWNFIELD TAX INCREMENT FINANCING FACT SHEET

Developers of brownfield sites can be reimbursed for eligible environmental costs with their own property taxes. When development results in higher property values, local brownfield redevelopment authorities (BRAs) may approve reimbursement from increased property taxes. This is known as tax increment financing (TIF) and is authorized under the Brownfield Redevelopment Financing Act, PA 381 of 1996 (Act 381). Even school taxes can be used toward brownfield redevelopment costs when an Act 381 work plan is approved by the Michigan Department of Environment, Great Lakes, and Energy (EGLE). TIF can help:

- Revitalize abandoned properties and return them to tax rolls
- Attract developers to brownfields, creating jobs and investment, and increasing nearby property values
- Provide a source of repayment for EGLE Brownfield Redevelopment Loans
- Reduce sprawl by reusing properties with existing infrastructure

WHO CAN USE TIF? A BRA or developer through a BRA

ELIGIBLE ACTIVITIES

A property must be contaminated to be eligible for EGLE TIF. If contamination is suspected but not known, EGLE TIF can be used for site investigation. Eligible activities include:

Phase I and Phase II Environmental Site Assessments and Baseline Environmental Assessments (BEAs)*

Asbestos, mold, and lead surveys, hazardous materials surveys, and pre-demolition surveys*

Due Care Activities

- Due care investigation and planning*
- Documentation of due care compliance*
- Activities performed to protect human health and the environment, such as removing contaminated soil or installing vapor mitigation systems or exposure barriers

Response Activities

- Remedial actions
- Demolition under some circumstances
- Lead, mold, or asbestos abatement when there is an imminent and significant threat
- And many more (refer to the Act 381 Work Plan Guidance for additional eligible environmental activities)

* School and local taxes are pre-approved. Pre-approved activities may be conducted prior to adoption of a Brownfield Plan and do not require approval by EGLE for the use of school taxes.

TIF APPROVAL PROCESS

1. BRA and local unit of government approve the Brownfield Plan. Public notifications and a public hearing are required.
2. If EGLE school TIF approval will be requested, submit draft Act 381 Work Plan to EGLE (optional).
3. BRA or local government submits Act 381 Work Plan to EGLE.
4. EGLE reviews and provides response within 60 days.
5. Local government or BRA administers TIF capture and is subject to reporting requirements.

HOW BROWNFIELD TIF WORKS

When a contaminated property is redeveloped and the property value increases, the difference between taxes on the base value and taxes on the new value is the tax increment. The tax increment can be reimbursed to a developer or other investor for eligible redevelopment costs. No existing taxes are taken away from a taxing jurisdiction; instead the increment is deferred for the duration of the approved brownfield plan.

CONTACT US

Ron Smedley, Brownfield Coordinator
smedleyr@michigan.gov
517-284-5153

www.michigan.gov/eglebrownfields
#mibrownfields



BROWNFIELD REDEVELOPMENT GRANT AND LOAN FACT SHEET

Brownfield grants and loans are available from the Michigan Department of Environment, Great Lakes, and Energy (EGLE)

for projects that promote economic development and reuse of brownfield properties. Grants and loans can be used for environmental assessments and cleanups at properties with known or suspected contamination. EGLE grants and loans can help communities:

- Revitalize abandoned properties and return them to tax rolls
- Attract developers to brownfields
- Avoid sprawl by reusing properties with existing infrastructure

WHO CAN APPLY? Applicants may be local units of government including brownfield redevelopment authorities (BRAs), economic development corporations, or other public bodies created pursuant to state law. Applications are accepted year-round.

ELIGIBLE ACTIVITIES

Grants and loans can pay for:

- Environmental evaluations/assessments
- Baseline Environmental Assessments
- Due care planning and implementation
- Response Activities
- Demolition, lead, mold, and asbestos abatement

FUNDING

- Up to \$1 million grant and \$1 million loan per project, or more for projects with significant economic or environmental benefits
- Grants are available to determine whether a property with redevelopment potential is contaminated, and for due care and cleanup at contaminated properties with a specific redevelopment, when economic benefits will exceed the grant amount
- Loans may be used at properties with suspected contamination and economic development potential
- Grants cannot benefit a party responsible for an activity causing contamination. Loans may be available when a responsible party will benefit, but with some restrictions

LOAN TERMS

- Interest rate is 1.5 percent
- 15-year payback, beginning with a 5-year interest-free, payment-free grace period
- Loans may be repaid through a BRA using tax increment financing

HOW TO APPLY

EGLE Brownfield Redevelopment staff collaborate with communities to determine eligibility and the optimal mix of project funding prior to application. Please contact an EGLE grant coordinator to discuss your project.

CONTACT US

Jeff Hukill, Brownfield Coordinator

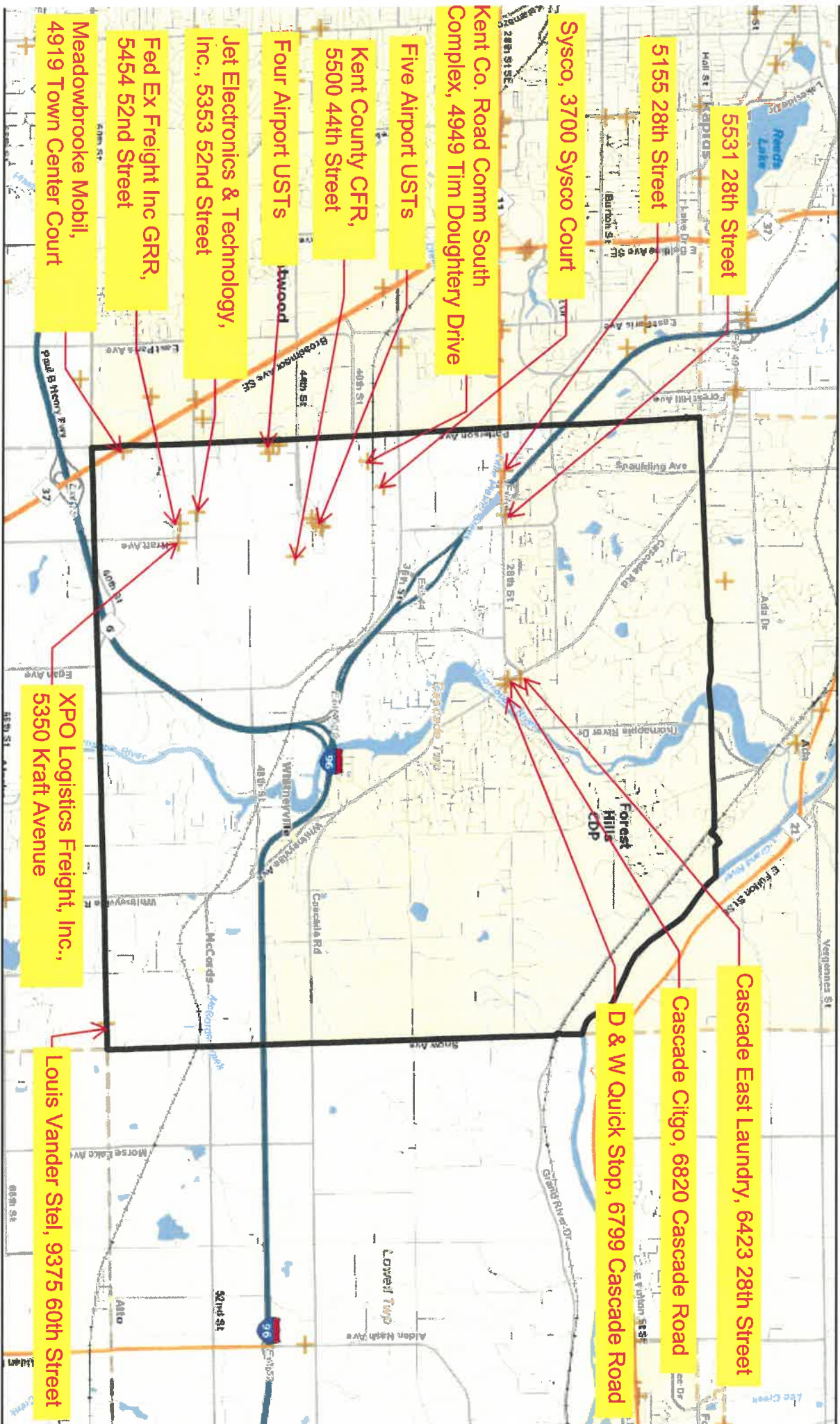
hukillj@michigan.gov

517-284-5113

www.michigan.gov/eglebrownfields

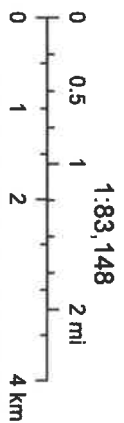
#mibrownfields

Environmental Mapper



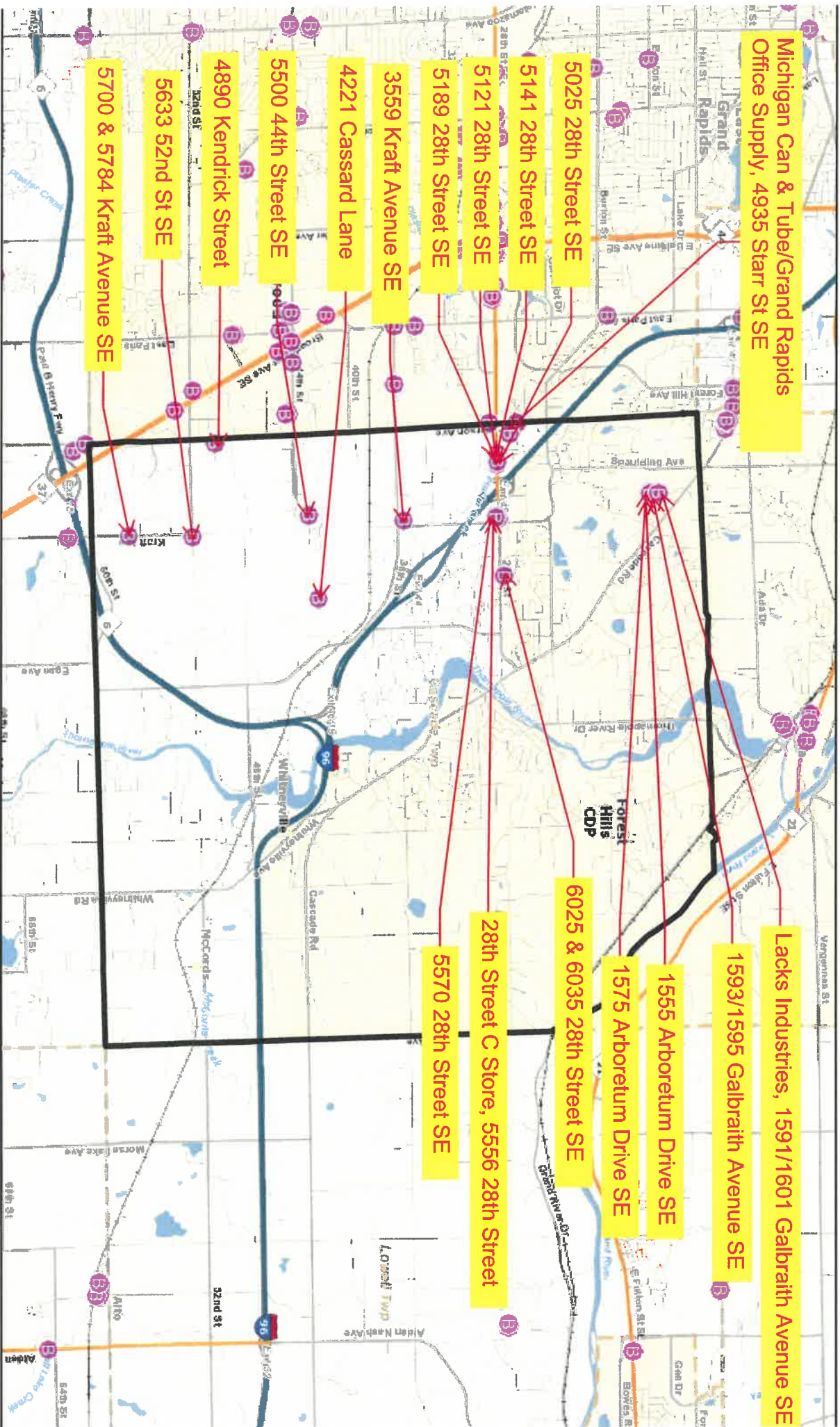
April 30, 2020

+ Active Tanks



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, OpenStreetMap contributors, and the GIS User Community

Environmental Mapper



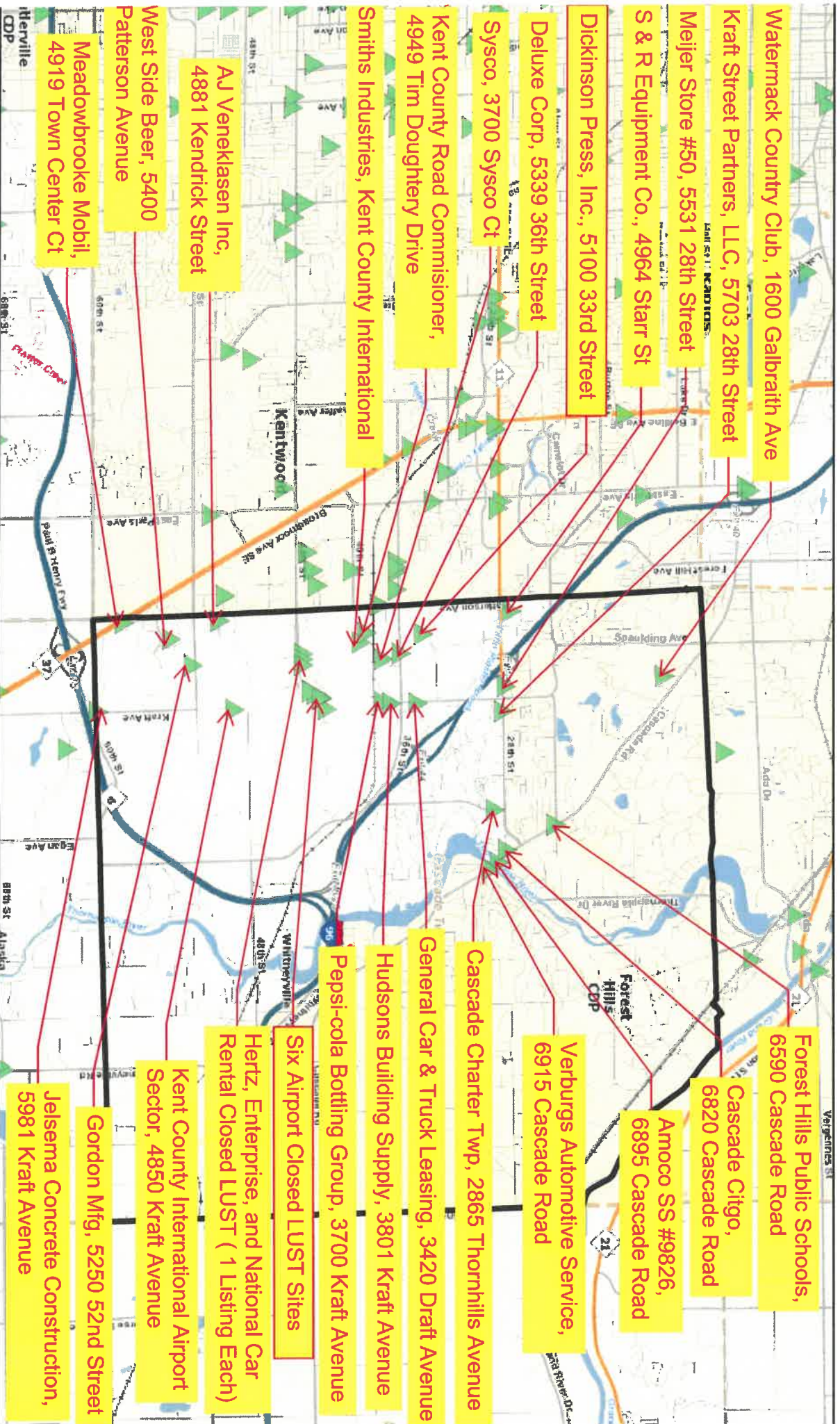
April 30, 2020

Baseline Environmental Assessment



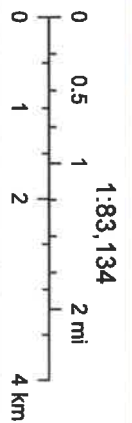
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Environmental Mapper



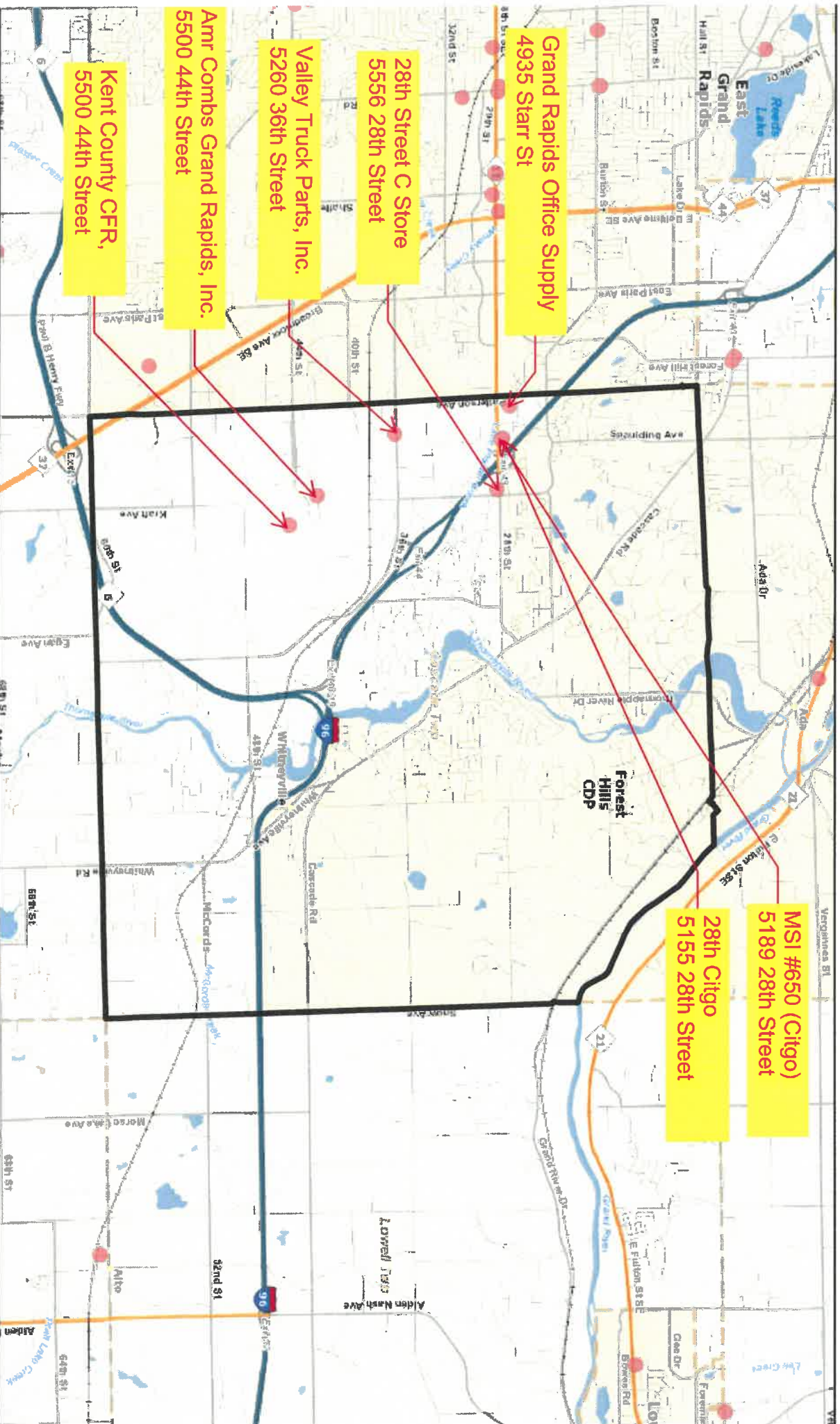
April 30, 2020

Closed LUST Sites



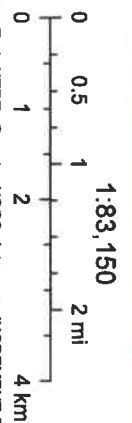
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Environmental Mapper



April 30, 2020

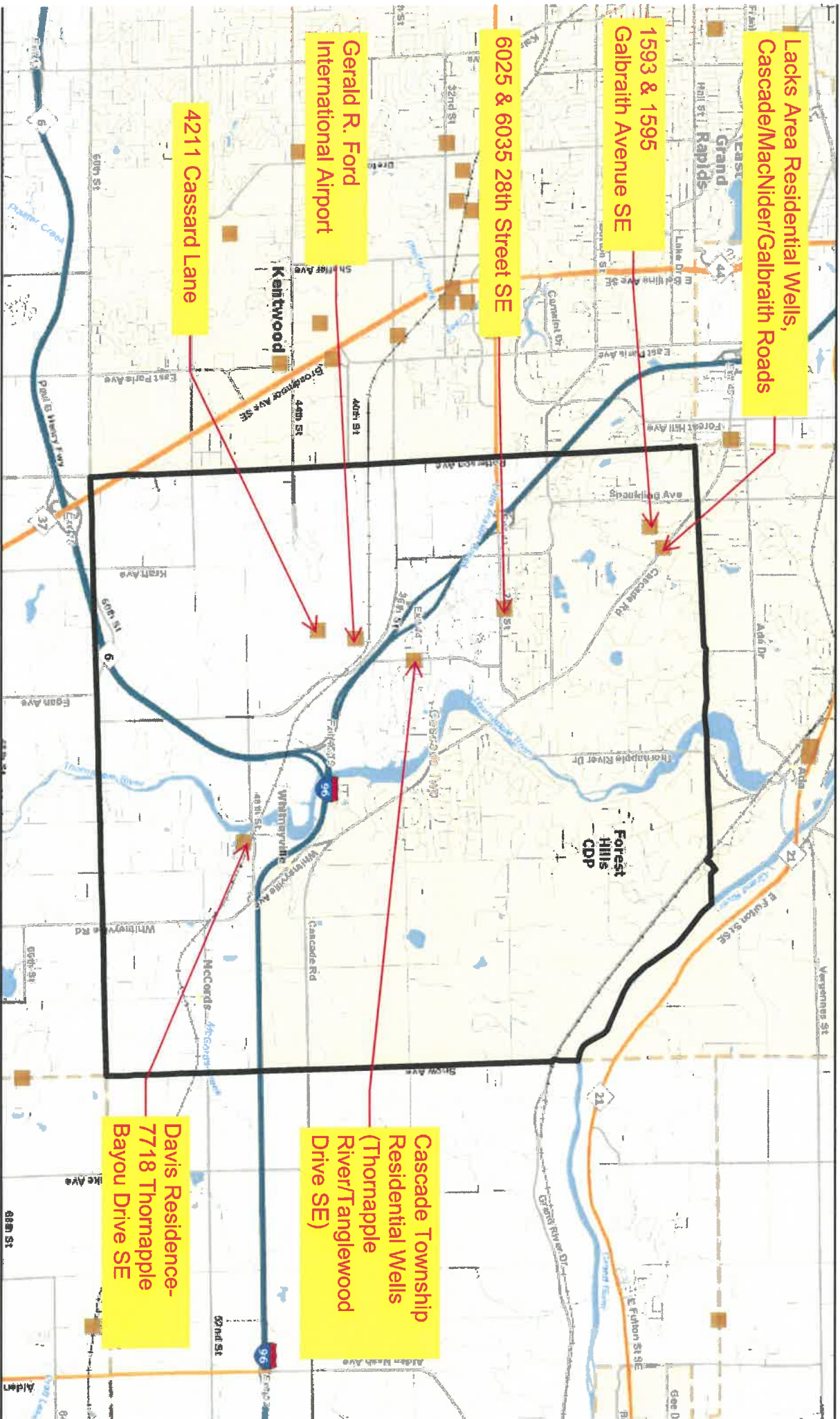
Open LUST Sites



1:83,150

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, OpenStreetMap contributors, and the GIS User Community

Environmental Mapper



April 30, 2020

Sites of Environmental Contamination (Part 201)

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, OpenStreetMap contributors, and the GIS User Community

FACT SHEET

PROPOSED ROBINSON DENTAL REDEVELOPMENT PROJECT

Location:

Scott and Beth Robinson DDS, PC proposes to construct a new two-story, 8,519 square foot building at an undeveloped parcel of land in Cascade Township. The address of the property is 5749 28th Street SE, Grand Rapids, Cascade Township, Michigan. The Property ID Number of the parcel is 41-19-08-351-033. The property is owned by the developer's land holding company, COCO Properties LLC.

Proposed Project Description and Benefits:

The project involves a \$2.6 million investment into the site. The new investment will significantly increase the taxable value of the property, which is currently at a taxable value of \$135,800. The project is expected to create 35 new professional level jobs. Robinson Dental attracts patients from a broad geographic area, and it is expected that patients will spend additional time in the district to take advantage of the variety of local shopping and dining establishments. At other locations, Robinson Dental has noticed that their investment has leveraged investment and expanded hours by their competition, providing a secondary economic benefit.

Environmental Conditions:

The property is dominated by two features: a storm water retention pond which serves the surrounding properties and two very large mounds of soil mixed with concrete and asphalt. An asphalt company was formerly located adjacent to this parcel, and it appears that the much of the concrete and asphalt was placed on this property by their operations. The soil deposited in the mounds is thought to originate completely from the excavation of the storm water retention pond. Environmental studies have found various contaminants in the soil piles above generic residential cleanup criteria including benzo(a)pyrene, fluoranthene, naphthalene, phenanthrene, selenium, and arsenic.

The environmental condition of the soils imposes a cost on the development of the property. Specifically, the soil will need to be transported to Waste Management's Landfill in Coopersville, Michigan, for proper disposal. Scott and Beth Robinson DDS, PC have requested that Cascade Township consider utilization of Michigan's powerful Brownfield Redevelopment incentives to aid in the cleanup and development of this property.

Solutions:

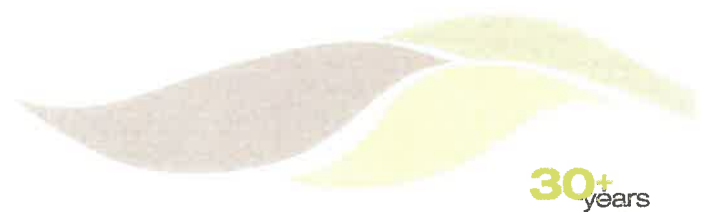
Two primary benefits are available through Michigan's Brownfield Redevelopment programs: Tax Increment Financing and Grants/Loans. Because of the investment in the property, a significant increase in taxable value is projected — about a \$1.3 million increase. This makes tax increment financing a viable tool to help pay for the environmental cleanup. Preliminary discussions with the Michigan Department of Environment, Great Lakes, and Energy (EGLE) indicate potential support for the project with a loan and possible grant funds.

The property currently sits within the boundary of a Downtown Development District and is subject to the tax increment financing plan of the Cascade Township Downtown Development Authority (DDA). By law, a DDA can only capture the tax increment from local taxes. A Brownfield Redevelopment Authority, however, can also capture millages related to the Intermediate School District, School Operating, and (with State approval) the State Education Tax. Therefore, if the property could utilize the tax increment program under the State’s Brownfield Financing Act (1996 PA 381) rather than the DDA’s plan, there would be more tax revenue available to pay for the cost of environmental cleanup. The amount of tax increment projected is sufficient to reimburse the environmental expenses in a relatively short time period. Should the Township consider accepting a loan from EGLE, it appears that the loan could be adequately serviced by the tax increment within the terms of EGLE’s loan program (see attached fact sheet).

Current Taxable Value	\$135,800	
Annual Local Tax Revenues from existing value (approximate)		\$3,600
Annual School Tax Revenues from existing value (approximate)		\$3,247
Estimated Future Value	\$1,300,000	
Annual Local Tax Revenues from projected value (estimated)		\$33,670
Annual School Tax Revenues from projected value (estimated)		\$31,200

A Brownfield Redevelopment Authority cannot capture debt millages and if the school education tax is captured, half of those dollars are sent to the State annually. Nonetheless, a Brownfield Redevelopment Authority, working with the DDA could capture about \$47,000 annually from tax increment to reimburse environmental cleanup costs.

Cleanup Costs are estimated to be \$578,000 inclusive of soil transportation, soil disposal, engineering and consulting, project management, carrying costs, and contingencies. Through a Brownfield Plan, the tax increment could reimburse this cost in approximately 12–13 years. This reimbursement schedule would fit within the 15-year term of a Brownfield Loan from EGLE should the Township be willing to secure that to support the project. The attached spreadsheet illustrates the capacity of a Brownfield Plan to support this project, including an EGLE Loan. Further, this project provides a significant amount of money that can be deposited in the community’s Local Brownfield Revolving Fund which can then be used to support brownfield redevelopment throughout the community.



Year	Principle Due	Principle Paid	Remaining Principle Balance Due (Year End)	Interest Accrued
2023	\$ 578,000.00	\$ 46,884.20	\$ 531,115.80	\$ 15,933.47
2024	\$ 531,115.80	\$ 47,407.73	\$ 483,708.08	\$ 14,511.24
2025	\$ 483,708.08	\$ 47,936.49	\$ 435,771.58	\$ 13,073.15
2026	\$ 435,771.58	\$ 48,470.55	\$ 387,301.03	\$ 11,619.03
2027	\$ 387,301.03	\$ 49,009.94	\$ 338,291.09	\$ 10,148.73
2028	\$ 338,291.09	\$ 49,554.73	\$ 288,736.36	\$ 8,662.09
2029	\$ 288,736.36	\$ 50,104.97	\$ 238,631.40	\$ 7,158.94
2030	\$ 238,631.40	\$ 50,660.70	\$ 187,970.69	\$ 5,639.12
2031	\$ 187,970.69	\$ 51,222.00	\$ 136,748.69	\$ 4,102.46
2032	\$ 136,748.69	\$ 51,788.91	\$ 84,959.78	\$ 2,548.79
2033	\$ 84,959.78	\$ 52,361.49	\$ 32,598.30	\$ 977.95
2034	\$ 32,598.30	\$ 52,939.79	\$ (20,341.50)	\$ (610.24)
2035	\$ -	\$ 53,523.88	\$ (53,523.88)	
2036	\$ -	\$ 20,509.61	\$ (20,509.61)	
2037	\$ -	\$ -	\$ -	
2038	\$ -	\$ -		\$ -
Totals		\$ 672,374.98		\$ 93,764.74

DRAFT

BROWNFIELD REDEVELOPMENT FINANCING ACT
Act 381 of 1996

AN ACT to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans; to create brownfield redevelopment zones; to promote the revitalization, redevelopment, and reuse of certain property, including, but not limited to, tax reverted, blighted, or functionally obsolete property; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004.

The People of the State of Michigan enact:

125.2651 Short title.

Sec. 1. This act shall be known and may be cited as the "brownfield redevelopment financing act".

History: 1996, Act 381, Eff. Sept. 16, 1996.

Compiler's note: For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

125.2652 Definitions.

Sec. 2. As used in this act:

- (a) "Authority" means a brownfield redevelopment authority created under this act.
- (b) "Baseline environmental assessment" means that term as defined in part 201 or 213.
- (c) "Blighted" means property that meets any of the following criteria as determined by the governing body:
 - (i) Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
 - (ii) Is an attractive nuisance to children because of physical condition, use, or occupancy.
 - (iii) Is a fire hazard or is otherwise dangerous to the safety of persons or property.
 - (iv) Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.
 - (v) Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a qualified local governmental unit, county, or this state after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.
 - (vi) Is property owned by or under the control of a land bank fast track authority, whether or not located within a qualified local governmental unit. Property included within a brownfield plan prior to the date it meets the requirements of this subdivision to be eligible property shall be considered to become eligible property as of the date the property is determined to have been or becomes qualified as, or is combined with, other eligible property. The sale, lease, or transfer of the property by a land bank fast track authority after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.
 - (vii) Has substantial buried subsurface demolition debris present so that the property is unfit for its intended use.
- (d) "Board" means the governing body of an authority.
- (e) "Brownfield plan" means a plan that meets the requirements of section 13 and section 13b and is adopted under section 14.
- (f) "Captured taxable value" means the amount in 1 year by which the current taxable value of an eligible property subject to a brownfield plan, including the taxable value or assessed value, as appropriate, of the property for which specific taxes are paid in lieu of property taxes, exceeds the initial taxable value of that eligible property. The state tax commission shall prescribe the method for calculating captured taxable value.
- (g) "Chief executive officer" means the mayor of a city, the village manager of a village, the township supervisor of a township, or the county executive of a county or, if the county does not have an elected county executive, the chairperson of the county board of commissioners.
- (h) "Combined brownfield plan" means a brownfield plan that also includes the information necessary to submit the plan to the department or Michigan strategic fund under section 15(20).
- (i) "Construction period tax capture revenues" means funds equal to the amount of income tax levied and

imposed in a calendar year upon wages paid to individuals physically present and working within the eligible property for the construction, renovation, or other improvement of eligible property that is an eligible activity within a transformational brownfield plan. As used in this subdivision, "wages" means that term as defined in section 3401 of the internal revenue code of 1986, 26 USC 3401. To calculate the amount of construction period tax capture revenues for a calendar year under a transformational brownfield plan, the state treasurer shall do all of the following:

(i) Require the owner or developer of the eligible property to report the total taxable wages paid to individuals for the construction, renovation, or other improvement of eligible property that is an eligible activity within the transformational brownfield plan. The wages reported under this subparagraph shall exclude any wages paid to employees of the owner or developer.

(ii) Multiply the amount under subparagraph (i) by the effective rate as determined by the state treasurer at which the income tax is levied on an individual in this state. The state treasurer shall estimate the effective rate by taking into account the effect of any exemptions, additions, subtractions, and credits allowable under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. The state treasurer may require the owner or developer to submit any information necessary for the calculation under this subparagraph.

(iii) The wage information and other information required under this subdivision shall be provided to the department of treasury by the owner or developer in a manner prescribed by the state treasurer. The state treasurer may require the owner or developer to provide a review or reconciliation of the wages by an independent auditing firm.

(j) "Corrective action" means that term as defined in part 111 or part 213.

(k) "Department" means the department of environmental quality.

(l) "Department specific activities" means baseline environmental assessments, due care activities, response activities, and other environmentally related actions that are eligible activities and are identified as a part of a brownfield plan that are in addition to the minimum due care activities required by part 201, including, but not limited to:

(i) Response activities that are more protective of the public health, safety, and welfare and the environment than required by section 20107a, 20114, or 21304c of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a, 324.20114, and 324.21304c.

(ii) Removal and closure of underground storage tanks pursuant to part 211 or 213.

(iii) Disposal of solid waste, as defined in part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11554, from the eligible property, provided it was not generated or accumulated by the authority or the developer.

(iv) Dust control related to construction activities.

(v) Removal and disposal of lake or river sediments exceeding part 201 criteria from, at, or related to an economic development project where the upland property is either a facility or would become a facility as a result of the deposition of dredged spoils.

(vi) Industrial cleaning.

(vii) Sheet piling and shoring necessary for the removal of materials exceeding part 201 criteria at projects requiring a permit pursuant to part 301, 303, or 325 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30101 to 324.30113, MCL 324.30301 to 324.30328, or MCL 324.32501 to 324.32515a.

(viii) Lead, mold, or asbestos abatement when lead, mold, or asbestos pose an imminent and significant threat to human health.

(m) "Due care activities" means those response activities identified as part of a brownfield plan that are necessary to allow the owner or operator of an eligible property in the plan to comply with the requirements of section 20107a or 21304c of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a and 324.21304c.

(n) "Economic opportunity zone" means 1 or more parcels of property that meet all of the following:

(i) That together are 40 or more acres in size.

(ii) That contain or contained a manufacturing operation that consists or consisted of 500,000 or more square feet.

(iii) That are located in a municipality that has a population of 30,000 or less and that is contiguous to a qualified local governmental unit.

(o) "Eligible activities" or "eligible activity" means 1 or more of the following:

(i) For all eligible properties, eligible activities include all of the following:

(A) Department specific activities.

(B) Relocation of public buildings or operations for economic development purposes.

(C) Reasonable costs of environmental insurance.

(D) Reasonable costs incurred to develop and prepare brownfield plans, combined brownfield plans, or work plans for the eligible property, including legal and consulting fees that are not in the ordinary course of acquiring and developing real estate.

(E) Reasonable costs of brownfield plan and work plan implementation, including, but not limited to, tracking and reporting of data and plan compliance and the reasonable costs incurred to estimate and determine actual costs incurred, whether those costs are incurred by a municipality, authority, or private developer.

(F) Demolition of structures that is not a response activity, including removal of manufactured debris comprised of discarded, unused, or unusable manufactured by-products left on the site by a previous owner. The removal of the manufactured by-products left on the site described in this sub-subparagraph is not eligible for interest reimbursement under sub-subparagraph (H).

(G) Lead, asbestos, or mold abatement.

(H) Except as otherwise provided in sub-subparagraph (F), the repayment of principal of and interest on any obligation issued by an authority to pay the costs of eligible activities attributable to an eligible property.

(ii) For eligible properties located in a qualified local unit of government, or an economic opportunity zone, or that is a former mill, eligible activities include:

(A) The activities described in subparagraph (i).

(B) Infrastructure improvements that directly benefit eligible property.

(C) Site preparation that is not a response activity.

(iii) For eligible properties that are owned by or under the control of a land bank fast track authority, or a qualified local unit of government or authority, eligible activities include:

(A) The eligible activities described in subparagraphs (i) and (ii).

(B) Assistance to a land bank fast track authority in clearing or quieting title to, or selling or otherwise conveying, property owned by or under the control of a land bank fast track authority or the acquisition of property by the land bank fast track authority if the acquisition of the property is for economic development purposes.

(C) Assistance to a qualified local governmental unit or authority in clearing or quieting title to, or selling or otherwise conveying, property owned by or under the control of a qualified local governmental unit or authority or the acquisition of property by a qualified local governmental unit or authority if the acquisition of the property is for economic development purposes.

(iv) For eligible activities on eligible property that is included in a transformational brownfield plan, any demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property, including infrastructure improvements that directly benefit eligible property.

(p) "Eligible property" means, except as otherwise provided in this subdivision, property for which eligible activities are identified under a brownfield plan that was used or is currently used for commercial, industrial, public, or residential purposes, including personal property located on the property, to the extent included in the brownfield plan, and that is 1 or more of the following:

(i) Is in a qualified local governmental unit and is a facility or a site or property as those terms are defined in part 213, historic resource, functionally obsolete, or blighted and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property.

(ii) Is not in a qualified local governmental unit and is a facility, historic resource, functionally obsolete, blighted, or a site or property as those terms are defined in part 213, and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property.

(iii) Is tax reverted property owned by or under the control of a land bank fast track authority.

(iv) Is a transit-oriented development or transit-oriented property.

(v) Is located in a qualified local governmental unit and contains a targeted redevelopment area.

(vi) Is undeveloped property that was eligible property in a previously approved brownfield plan abolished under section 14(8).

(vii) Eligible property does not include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(q) "Environmental insurance" means liability insurance for environmental contamination and cleanup that is not otherwise required by state or federal law.

(r) "Facility" means that term as defined in part 201.

(s) "Fiscal year" means the fiscal year of the authority.

(t) "Former mill" means a former mill that has not been used for industrial purposes for the immediately preceding 2 years, that is not located in a qualified local governmental unit, that is a facility or is a site or a property as those terms are defined in part 213, functionally obsolete, or blighted, and that is located within 15 miles of a river that is a federal superfund site listed under the comprehensive environmental response, compensation and liability act of 1980, 42 USC 9601 to 9675, and that is located in a municipality with a population of less than 10,000.

(u) "Functionally obsolete" means that the property is unable to be used to adequately perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property.

(v) "Governing body" means the elected body having legislative powers of a municipality creating an authority under this act.

(w) "Historic resource" means that term as defined in section 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

(x) "Income tax" means the tax levied and imposed under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(y) "Income tax capture revenues" means funds equal to the amount for each tax year by which the aggregate income tax from individuals domiciled within the eligible property subject to a transformational brownfield plan exceeds the initial income tax value. The state treasurer shall calculate annually the income tax capture revenues associated with each transformational brownfield plan. In calculating income tax capture revenues, the state treasurer shall subtract from the aggregate amount of income tax credits under sections 255, 265, 266, and chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.255, 206.265, 206.266, and 206.501 to 206.532. The state treasurer shall require the owner or developer of the eligible property to provide to the department of treasury all of the following information at the end of each calendar year, including the year in which the resolution adding that eligible property in the transformational brownfield plan is adopted:

(i) A list of individuals domiciled within the eligible property.

(ii) The addresses of those individuals identified in subparagraph (i).

(iii) Any other information that may be necessary to calculate the income tax capture revenues. The information required under this subdivision shall be provided in a manner prescribed by the state treasurer.

(z) "Industrial cleaning" means cleaning or removal of contaminants from within a structure necessary to achieve the intended use of the property.

(aa) "Infrastructure improvements" means a street, road, sidewalk, parking facility, pedestrian mall, alley, bridge, sewer, sewage treatment plant, property designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, waterway, waterline, water storage facility, rail line, utility line or pipeline, transit-oriented development, transit-oriented property, or other similar or related structure or improvement, together with necessary easements for the structure or improvement, owned or used by a public agency or functionally connected to similar or supporting property owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity, provided that any road, street, or bridge shall be continuously open to public access and that other property shall be located in public easements or rights-of-way and sized to accommodate reasonably foreseeable development of eligible property in adjoining areas. Infrastructure improvements also include 1 or more of the following whether publicly or privately owned or operated or located on public or private property:

(i) Underground parking.

(ii) Multilevel parking structures.

(iii) Urban stormwater management systems.

(bb) "Initial income tax value" means the aggregate amount of income tax less credits under sections 255, 265, 266, and chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.255, 206.265, 206.266, and 206.501 to 206.532, from individuals domiciled within the eligible property subject to a transformational brownfield plan for the tax year in which the resolution adding that eligible property in the transformational brownfield plan is adopted.

(cc) "Initial taxable value" means the taxable value of an eligible property identified in and subject to a brownfield plan at the time the resolution adding that eligible property in the brownfield plan is adopted, as shown either by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, if provided by the brownfield plan, by the next assessment roll for which equalization will be completed following the date the resolution adding that eligible property in the brownfield plan is

adopted. Property exempt from taxation at the time the initial taxable value is determined shall be included with the initial taxable value of zero. Property for which a specific tax is paid in lieu of property tax shall not be considered exempt from taxation. The state tax commission shall prescribe the method for calculating the initial taxable value of property for which a specific tax was paid in lieu of property tax. The initial assessed value may be modified by lowering the initial assessed value once during the term of the brownfield plan through an amendment as provided in section 14 after the tax increment financing plan fails to generate captured assessed value for 3 consecutive years due to declines in assessed value.

(dd) "Initial withholding tax value" means the amount of income tax withheld under part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from individuals employed within the eligible property subject to a transformational brownfield plan for the calendar year in which the resolution adding the eligible property to the plan is adopted. For purposes of this act, an individual is employed within the eligible property if the eligible property is the individual's principal place of employment. The initial withholding tax value shall not include construction period tax capture revenues.

(ee) "Land bank fast track authority" means an authority created under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

(ff) "Local taxes" means all taxes levied other than taxes levied for school operating purposes.

(gg) "Michigan strategic fund" means the Michigan strategic fund created under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(hh) "Mixed-use" means a real estate project with planned integration of some combination of retail, office, residential, or hotel uses.

(ii) "Municipality" means all of the following:

(i) A city.

(ii) A village.

(iii) A township in those areas of the township that are outside of a village.

(iv) A township in those areas of the township that are in a village upon the concurrence by resolution of the village in which the zone would be located.

(v) A county.

(jj) "Owned by or under the control of" means that a land bank fast track authority or a qualified local unit of government has 1 or more of the following:

(i) An ownership interest in the property.

(ii) A tax lien on the property.

(iii) A tax deed to the property.

(iv) A contract with this state or a political subdivision of this state to enforce a lien on the property.

(v) A right to collect delinquent taxes, penalties, or interest on the property.

(vi) The ability to exercise its authority over the property.

(kk) "Part 111", "part 201", "part 211", or "part 213" means that part as described as follows:

(i) Part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

(ii) Part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

(iii) Part 211 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.21101 to 324.21113.

(iv) Part 213 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.21301a to 324.21334.

(ll) "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(mm) "Qualified taxpayer" means that term as defined in sections 38d and 38g of former 1975 PA 228, or section 437 of the Michigan business tax act, 2007 PA 36, MCL 208.1437, or a recipient of a community revitalization incentive as described in section 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

(nn) "Release" means that term as defined in part 201 or part 213.

(oo) "Response activity" means either of the following:

(i) Response activity as that term is defined in part 201.

(ii) Corrective action.

(pp) "Specific taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the technology park development act, 1984 PA 385, MCL 207.701 to 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

125.2797; the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786; the commercial rehabilitation act, 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax levied under the tax reverted clean title act, 2003 PA 260, MCL 211.1021 to 211.1025a, that is not required to be distributed to a land bank fast track authority.

(qq) "State brownfield redevelopment fund" means the state brownfield redevelopment fund created in section 8a.

(rr) "Targeted redevelopment area" means not fewer than 40 and not more than 500 contiguous parcels of real property located in a qualified local governmental unit and designated as a targeted redevelopment area by resolution of the governing body and approved by the Michigan strategic fund. A qualified local governmental unit is limited to designating no more than 2 targeted redevelopment areas for the purposes of this section in a calendar year. The Michigan strategic fund may approve no more than 5 targeted redevelopment areas for the purposes of this section in a calendar year.

(ss) "Tax increment 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 and personal property located on that property, regardless of whether those taxes began to be levied after the brownfield plan was adopted. Tax increment revenues do not include any of the following:

(i) Ad valorem property taxes specifically levied for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit, and specific taxes attributable to those ad valorem property taxes.

(ii) For tax increment revenues attributable to eligible property also exclude the amount of ad valorem property taxes or specific taxes captured by a downtown development authority under 1975 PA 197, MCL 125.1651 to 125.1681, tax increment finance authority under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, corridor improvement authority, under the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899, or local development finance authority under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, if those taxes were captured by these other authorities on the date that eligible property became subject to a brownfield plan under this act.

(iii) Ad valorem property taxes levied under 1 or more of the following or specific taxes attributable to those ad valorem property taxes:

(A) The zoological authorities act, 2008 PA 49, MCL 123.1161 to 123.1183.

(B) The art institute authorities act, 2010 PA 296, MCL 123.1201 to 123.1229.

(tt) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(uu) "Taxes levied for school operating purposes" means all of the following:

(i) The taxes levied by a local school district for operating purposes.

(ii) The taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(iii) That portion of specific taxes attributable to taxes described under subparagraphs (i) and (ii).

(vv) "Transformational brownfield plan" means a brownfield plan that meets the requirements of section 13c and is adopted under section 14a and, as designated by resolution of the governing body and approved by the Michigan strategic fund, will have a transformational impact on local economic development and community revitalization based on the extent of brownfield redevelopment and growth in population, commercial activity, and employment that will result from the plan. To be designated a transformational brownfield plan, a transformational brownfield plan under this subdivision shall be for mixed-use development and shall be expected to result in the following levels of capital investment:

(i) In a municipality that is not a county and that has a population of at least 600,000, \$500,000,000.00.

(ii) In a municipality that is not a county and that has a population of at least 150,000 and not more than 599,999, \$100,000,000.00.

(iii) In a municipality that is not a county and that has a population of at least 100,000 and not more than 149,999, \$75,000,000.00.

(iv) In a municipality that is not a county and that has a population of at least 50,000 and not more than 99,999, \$50,000,000.00.

(v) In a municipality that is not a county and that has a population of at least 25,000 and not more than 49,999, \$25,000,000.00.

(vi) In a municipality that is not a county and that has a population of less than 25,000, \$15,000,000.00.

(ww) "Transit-oriented development" means infrastructure improvements that are located within 1/2 mile of a transit station or transit-oriented property that promotes transit ridership or passenger rail use as determined by the board and approved by the municipality in which it is located.

(xx) "Transit-oriented property" means property that houses a transit station in a manner that promotes

transit ridership or passenger rail use.

(yy) "Withholding tax capture revenues" means the amount for each calendar year by which the income tax withheld under part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from individuals employed within the eligible property subject to a transformational brownfield plan exceeds the initial withholding tax value. Withholding tax capture revenues shall not include income tax from individuals domiciled within the eligible property or construction period tax capture revenues. To calculate withholding tax capture revenues for a calendar year under a transformational brownfield plan, the state treasurer or the Michigan strategic fund shall do all of the following:

(i) The state treasurer shall require the owner or developer of the eligible property to provide the department of treasury with notice not more than 10 days from the date an employer commences or terminates occupancy within the eligible property. As used in this subdivision, "employer" means that term as defined in section 8 of the income tax act of 1967, 1967 PA 281, MCL 206.8.

(ii) The state treasurer shall develop methods and processes that are necessary for each employer occupying the eligible property to report the amount of withholding under part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from individuals employed within the eligible property.

(iii) The Michigan strategic fund shall include the following provisions in the development or reimbursement agreement for any transformational brownfield plan that utilizes withholding tax capture revenues:

(A) That the owner or developer of the eligible property shall require each employer occupying the eligible property to comply with the reporting requirements under this section through a contract requirement, lease requirement, or other such means.

(B) That reimbursement of withholding tax capture revenues is limited to amounts that are reported in accordance with part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, and this state has no obligation with respect to withholding tax capture revenues that are not reported or paid.

(zz) "Work plan" means a plan that describes each individual activity to be conducted to complete eligible activities and the associated costs of each individual activity.

(aaa) "Zone" means, for an authority established before June 6, 2000, a brownfield redevelopment zone designated under this act.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 254, Imd. Eff. May 1, 2002;—Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004;—Am. 2003, Act 277, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 101, Imd. Eff. July 22, 2005;—Am. 2006, Act 32, Imd. Eff. Feb. 23, 2006;—Am. 2007, Act 204, Imd. Eff. Dec. 27, 2007;—Am. 2010, Act 241, Imd. Eff. Dec. 14, 2010;—Am. 2010, Act 246, Imd. Eff. Dec. 14, 2010;—Am. 2012, Act 502, Imd. Eff. Dec. 28, 2012;—Am. 2013, Act 67, Imd. Eff. June 19, 2013;—Am. 2016, Act 471, Eff. Apr. 5, 2017;—Am. 2017, Act 46, Eff. July 24, 2017;—Am. 2018, Act 203, Imd. Eff. June 20, 2018.

125.2653 Brownfield redevelopment authority; establishment; exercise of powers; alteration or amendment of boundaries; authority as public body corporate; written agreement with county.

Sec. 3. (1) A municipality may establish 1 or more authorities. Except as provided in subsection (4), an authority with zones established before June 6, 2000 shall exercise its powers within its designated zones. Except as provided in subsection (4), an authority established on or after June 6, 2000 shall exercise its powers over any eligible property located in the municipality.

(2) An authority with zones established before June 6, 2000 may alter or amend the boundaries of those zones if the authority holds a public hearing on the alteration or amendment using the procedures under section 4(2), (3), and (4).

(3) The authority shall be a public body corporate that may sue and be sued in a court of competent jurisdiction. The authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act is not a limitation upon the general powers of the authority. The powers granted in this act to an authority may be exercised whether or not bonds are issued by the authority.

(4) An authority established by a county shall exercise its powers with respect to eligible property within a city, village, or township within the county only if that city, village, or township has concurred with the provisions of a brownfield plan that apply to that eligible property within the city, village, or township.

(5) A city, village, or township including a city, village, or township that is a qualified local governmental unit may enter into a written agreement with the county in which that city, village, or township is located to exercise the powers granted to that specific city, village, or township under this act.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2016, Act 471, Eff. Apr. 5, 2017.

125.2654 Resolution by governing body; adoption; notice; public hearing; proceedings

establishing authority; presumption of validity; exercise of powers as essential governmental function.

Sec. 4. (1) A governing body may declare by resolution adopted by a majority of its members elected and serving its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority. The notice of the public hearing shall state the date, time, and place of the hearing. At that hearing, a citizen, taxpayer, official from a taxing jurisdiction whose millage may be subject to capture under a brownfield plan, or property owner of the municipality has the right to be heard in regard to the establishment of the authority.

(3) Not more than 30 days after the public hearing, if the governing body intends to proceed with the establishment of the authority, the governing body shall adopt, by majority vote of its members elected and serving, a resolution establishing the authority. The adoption of the resolution is subject to all applicable statutory or charter provisions with respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption.

(4) The proceedings establishing an authority shall be presumptively valid unless contested in a court of competent jurisdiction within 60 days after the filing of the resolution with the secretary of state.

(5) The exercise by an authority of the powers conferred by this act shall be considered to be an essential governmental function and benefit to, and a legitimate public purpose of, the state, the authority, and the municipality or units.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2005, Act 101, Imd. Eff. July 22, 2005;—Am. 2012, Act 502, Imd. Eff. Dec. 28, 2012;—Am. 2016, Act 471, Eff. Apr. 5, 2017.

125.2655 Designation of board by governing body; membership; trustees; applicability of subsection (2); election of chairperson, vice-chairperson, and other officers; oath; procedural rules; meetings; special meetings; removal of member; records open to public; quorum.

Sec. 5. (1) Each authority shall be under the supervision and control of a board chosen by the governing body. Subject to subsection (2), the governing body may by majority vote designate 1 of the following to constitute the board:

(a) The board of directors of the economic development corporation of the municipality established under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636.

(b) The trustees of the board of a downtown development authority established under 1975 PA 197, MCL 125.1651 to 125.1681.

(c) The trustees of the board of a tax increment financing authority established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(d) The trustees of the board of a local development financing authority established under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(e) 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. Of the initial members appointed, an equal number, as near as practicable, shall be appointed for 1 year, 2 years, and 3 years. A member shall hold office until the member's successor is appointed and qualified. Thereafter, each member shall serve for a term of 3 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for reasonable actual and necessary expenses.

(2) The governing body of a municipality in which a board described in subsection (1)(b), (c), or (d) has been established shall designate the trustees of 1 of those boards to constitute the board. This subsection shall only apply in the event a board described in subsection (1)(b), (c), or (d) is authorized under subsection (1) to serve as the board of the authority.

(3) The members shall elect 1 of their membership as chairperson and another as vice-chairperson. The members may designate and elect other officers of the board as they consider necessary.

(4) Before assuming the duties of office, a member shall qualify by taking and subscribing to the oath of office provided in section 1 of article XI of the state constitution of 1963.

(5) The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public, in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The rules of procedure of the authority may permit a person to be

appointed to the board in his or her capacity as a public official, whether appointed or elected. The rules of procedure of the authority may also provide that the member's term on the board shall expire upon expiration of the member's service as a public official. The expiration of service as a public official shall be defined to also include the public official's resignation or removal from the position as a public official.

(6) After notice and an opportunity to be heard, a member of the board appointed under subsection (1)(e) may be removed before the expiration of his or her term for cause by the governing body. Removal of a member is subject to review by the circuit court.

(7) All financial records of an authority shall be open to the public under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(8) A majority of the members of the board appointed and serving shall constitute a quorum. Action may be taken by the board at a meeting upon a vote of the majority of the members present.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2014, Act 244, Imd. Eff. June 27, 2014.

125.2656 Appointment or employment of director, treasurer, secretary, personnel, and consultants; assistance provided by municipality; retirement and insurance programs.

Sec. 6. (1) The board may employ and fix the compensation of a director of the authority, subject to the approval of the governing body creating the authority. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of the office, the director shall take and subscribe to the oath of office provided in section 1 of article XI of the state constitution of 1963 and shall furnish bond by posting a bond in the sum specified in the resolution establishing the authority. The bond shall be payable to the authority for the use and benefit of the authority, approved by the board, and filed with the clerk of the municipality. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of the office, the acting director shall take and subscribe to the oath of office referenced in this subsection and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority, as the board requires.

(2) The board may appoint or employ and fix the compensation of a treasurer who shall keep the financial records of the authority and who, together with the director, if a director is appointed, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform other duties as may be delegated by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may appoint or employ and fix the compensation of a secretary who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties as may be delegated by the board.

(4) The board may employ and retain personnel and consultants as considered necessary by the board, including legal counsel to advise the board in the proper performance of its duties and to represent the authority in actions brought by or against the authority.

(5) Upon request of the authority, the municipality may provide assistance to the authority in the performance of its powers and duties.

(6) The employees of an authority may be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees on the same basis as civil service employees.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2657 Powers of authority; determining captured taxable value; transfer of municipality funds to authority.

Sec. 7. (1) An authority may do 1 or more of the following:

(a) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(b) Incur and expend funds to pay or reimburse a public or private person for costs of eligible activities attributable to an eligible property.

(c) As approved by the authority, incur costs and expend funds from the local brownfield revolving fund

created under section 8 for purposes authorized in that section.

(d) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties, including, but not limited to, lease purchase agreements, land contracts, installment sales agreements, and loan agreements.

(e) On terms and conditions and in a manner and for consideration the authority considers proper or for no monetary consideration, own, mortgage, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines are reasonably necessary to achieve the purposes of this act, and grant or acquire licenses, easements, and options with respect to the property.

(f) Acquire, maintain, repair, or operate all devices necessary to ensure continued eligible activities on eligible property.

(g) Accept grants and donations of property, labor, or other things of value from a public or private source.

(h) Incur costs in connection with the performance of its authorized functions, including, but not limited to, administrative costs and architect, engineer, legal, or accounting fees.

(i) Study, develop, and prepare the reports or plans the authority considers necessary to assist it in the exercise of its powers under this act and to monitor and evaluate the progress under this act.

(j) Procure insurance against loss in connection with the authority's property, assets, or activities.

(k) Invest the money of the authority at the authority's discretion in obligations determined proper by the authority, and name and use depositories for its money.

(l) Make loans, participate in the making of loans, undertake commitments to make loans and mortgages, buy and sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, commence an action to protect or enforce a right conferred upon the authority by a law, mortgage, loan, contract, or other agreement, bid for and purchase property that was the subject of the mortgage at a foreclosure or other sale, acquire and take possession of the property and in that event compute, administer, pay the principal and interest on obligations incurred in connection with that property, and dispose of and otherwise deal with the property, in a manner necessary or desirable to protect the interests of the authority.

(m) Borrow money and issue its bonds and notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of tax increment revenues.

(n) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this act, or other laws that relate to the purposes and responsibilities of the authority.

(2) The authority shall determine the captured taxable value of each parcel of eligible property. The captured taxable value of a parcel shall not be less than zero.

(3) A municipality may transfer the funds of the municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 413, Imd. Eff. June 3, 2002;—Am. 2016, Act 471, Eff. Apr. 5, 2017.

125.2658 Local brownfield revolving fund.

Sec. 8. (1) An authority may establish a local brownfield revolving fund. A local brownfield revolving fund shall consist of funds deposited from the following sources:

(a) Funds appropriated or otherwise made available from public or private sources.

(b) Local tax and school operating tax increment revenue captured in excess of the amount authorized for eligible expenses under section 13(4) only when all of the following conditions are met:

(i) The excess capture occurs during the time of capture for the purpose of paying the costs permitted under section 13(4), or for not more than 5 years after the time that capture is required for the purpose of paying the costs permitted under section 13(4), or both.

(ii) The excess local tax excess capture shall not exceed the total of the cost of eligible activities approved in the brownfield plan.

(iii) The excess capture of taxes for school operating purposes shall not exceed the total of the cost of eligible department specific activities approved in the applicable brownfield plan, combined brownfield plan, or work plan.

(iv) Excess tax increment revenues from taxes levied for school operating purposes for eligible activities authorized under section 13b(4) by the Michigan strategic fund shall not be captured for deposit in the local brownfield revolving fund.

(2) The capture of school operating tax increment revenue described in subsection (1)(b) is subject to the 50% capture specified in section 13b(14).

(3) The tax increment revenues from eligible property for deposit in the local brownfield revolving fund

may include tax increment revenues attributable to taxes levied for school operating purposes in an amount not greater than the tax increment revenues levied for school operating purposes captured from the eligible property pursuant to section 13(4).

(4) The local brownfield revolving fund may be used only to pay the costs of eligible activities on eligible property that is located within the municipality.

(5) An authority or a municipality on behalf of an authority may incur an obligation for the purpose of funding a local brownfield revolving fund.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2012, Act 502, Imd. Eff. Dec. 28, 2012;—Am. 2016, Act 471, Eff. Apr. 5, 2017.

125.2658a State brownfield redevelopment fund.

Sec. 8a. (1) The state brownfield redevelopment fund is created as a revolving fund within the department of treasury to be administered as provided in this section. The state treasurer shall direct the investment of the state brownfield redevelopment fund. Money in the state brownfield redevelopment fund at the close of the fiscal year shall remain in the state brownfield redevelopment fund and shall not lapse to the general fund.

(2) The state treasurer shall credit to the fund money from the following sources:

(a) All amounts deposited into the state brownfield redevelopment fund under subsection (4) and section 13b(14).

(b) The proceeds from repayment of a loan, including interest on those repayments, under subsection (3)(c)(vi).

(c) Interest on funds deposited into the state brownfield redevelopment fund.

(d) Money obtained from any other source authorized by law.

(3) The state brownfield redevelopment fund may be used only for the following purposes:

(a) Up to 15% of the amounts deposited annually into the state brownfield redevelopment fund may be used to pay administrative costs of all of the following:

(i) The Michigan strategic fund to implement this act.

(ii) The department to implement this act.

(iii) The department to implement part 196 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.19601 to 324.19616.

(iv) The department of treasury to implement this act.

(b) To make deposits into the clean Michigan initiative bond fund under section 19606(2)(d) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.19606, for use in providing grants and loans under section 19608(1)(a)(iv) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.19608.

(c) To fund a grant and loan program created and operated by the Michigan strategic fund for the costs of eligible activities described in section 13b(4) on eligible properties. The grant and loan program shall provide for all of the following:

(i) The Michigan strategic fund shall create and operate a grant and loan program to provide grants and loans to fund eligible activities described in section 13b(4) on eligible property. The Michigan strategic fund shall develop and use a detailed application, approval, and compliance process adopted by resolution of the board of the Michigan strategic fund. This process shall be published and available on the Michigan strategic fund website. Program standards, guidelines, templates, or any other forms to implement the grant and loan program shall be approved by the board of the Michigan strategic fund. The Michigan strategic fund may delegate its approval authority under this subsection to a designee.

(ii) A person may apply to the Michigan strategic fund for approval of a grant or loan to fund eligible activities described in section 13b(4) on eligible property.

(iii) The Michigan strategic fund shall approve or deny an application not more than 60 days after receipt of an administratively complete application. If the application is neither approved nor denied within 60 days, it shall be considered by the board of the Michigan strategic fund, or its designee if delegated, for action at, or by, the next regularly scheduled board meeting. The Michigan strategic fund may delegate the approval or denial of an application to the chairperson of the Michigan strategic fund or other designees determined by the board.

(iv) When an application is approved under this subsection, the Michigan strategic fund shall enter into a written agreement with the applicant. The written agreement shall provide all the conditions imposed on the applicant and the terms of the grant or loan. The written agreement shall also provide for penalties if the applicant fails to comply with the provisions of the written agreement.

(v) After the Michigan strategic fund and the applicant have entered into a written agreement under subparagraph (iv), the Michigan strategic fund shall distribute the proceeds to the applicant according to the

terms of the written agreement.

(vi) Any proceeds from repayment of a loan, including interest on those repayments, under this subsection shall be paid into the state brownfield redevelopment fund or to the fund from which the loan was generated, as defined in subsection (3)(b) and (c).

(d) To distribute construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues in accordance with a transformational brownfield plan under subsection (4).

(4) The state treasurer shall deposit annually from the general fund into the state brownfield redevelopment fund an amount equal to the construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues due to be transmitted under all transformational brownfield plans. The department of treasury shall distribute the construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues to an authority, or to the owner or developer of the eligible property to which the revenues are attributable, in accordance with section 16(8) and the terms of the written development or reimbursement agreement for each transformational brownfield plan. Amounts transferred into the state brownfield redevelopment fund attributable to a specific transformational brownfield plan shall be accounted for separately within the state brownfield redevelopment fund and shall not be used for any other purpose or activity under this section or for any transformational brownfield plan other than the plan to which the revenues are attributable or for the additional administrative costs under this section associated with the implementation of a transformational brownfield plan.

History: Add. 2012, Act 502, Imd. Eff. Dec. 28, 2012;—Am. 2016, Act 471, Eff. Apr. 5, 2017;—Am. 2017, Act 46, Eff. July 24, 2017.

125.2659 Authority as instrumentality of political subdivision.

Sec. 9. The authority shall be considered an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2660 Taking, transfer, and use of private property.

Sec. 10. A municipality may transfer private property taken under the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, to the authority for use as authorized in the brownfield plan, on terms and conditions it considers appropriate. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2661 Financing sources of authority activities.

Sec. 11. The activities of the authority shall be financed from 1 or more of the following sources:

(a) Contributions, contractual payments, or appropriations to the authority for the performance of its functions or to pay the costs of a brownfield plan of the authority.

(b) Revenues from a property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(c) Subject to the limitations imposed under sections 8, 13, 13b, and 15, 1 or both of the following:

(i) Tax increment revenues received under a brownfield plan established under sections 13 and 14.

(ii) Proceeds of tax increment bonds and notes issued under section 17.

(d) Proceeds of revenue bonds and notes issued under section 12.

(e) Revenue available in the local brownfield revolving fund for the costs described in section 8.

(f) Construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues received under a transformational brownfield plan established under sections 13c and 14a.

(g) Money obtained from all other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance activities authorized under this act.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2016, Act 471, Eff. Apr. 5, 2017;—Am. 2017, Act 46, Eff. July 24, 2017.

125.2662 Bonds and notes of authority.

Sec. 12. (1) The authority may borrow money and issue its negotiable revenue bonds or notes to finance all or part of the costs of eligible activities or of another activity of the authority under this act. Revenue bonds and notes issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. The costs that may be financed by the issuance of revenue bonds or notes may include the costs of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with

an activity authorized under this act; engineering, architectural, legal, accounting, or financial expenses; the costs necessary or incidental to the borrowing of money; interest on the bonds or notes during the period of construction; a reserve for payment of principal and interest on the bonds or notes; and a reserve for operation and maintenance until sufficient revenues have developed. The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and all money, revenues, or income received in connection with the property.

(2) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged by the authority immediately shall be subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of a pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(3) Bonds or notes issued under this section shall be exempt from all taxation in this state except estate and transfer taxes, and the interest on the bonds or notes shall be exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(4) Unless otherwise provided by a majority vote of the members of its governing body, the municipality shall not be liable on bonds or notes of the authority issued under this section and the bonds or notes shall not be a debt of the municipality.

(5) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is supplemental and in addition to all other authority granted by law.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2002, Act 413, Imd. Eff. June 3, 2002.

125.2663 Brownfield plan; provisions.

Sec. 13. (1) When adopting a brownfield plan, the board shall comply with the notice and approval provisions of section 14.

(2) Subject to section 15, the board may implement a brownfield plan. The brownfield plan may apply to 1 or more parcels of eligible property whether or not those parcels of eligible property are contiguous and may be amended to apply to additional parcels of eligible property. Except as otherwise authorized by this act, if more than 1 eligible property is included within the plan, the tax increment revenues under the plan shall be determined individually for each eligible property. Each plan or an amendment to a plan shall be approved by the governing body of the municipality and shall contain all of the following:

(a) A description of the costs of the plan intended to be paid for with the tax increment revenues or, for a plan for eligible properties qualified on the basis that the property is owned by or under the control of a land bank fast track authority, a listing of all eligible activities that may be conducted for 1 or more of the eligible properties subject to the plan.

(b) A brief summary of the eligible activities that are proposed for each eligible property or, for a plan for eligible properties qualified on the basis that the property is owned by or under the control of a land bank fast track authority, a brief summary of eligible activities conducted for 1 or more of the eligible properties subject to the plan.

(c) An estimate of the captured taxable value and tax increment revenues for each year of the plan from the eligible property. The plan may provide for the use of part or all of the captured taxable value, including deposits in the local brownfield revolving fund, but the portion intended to be used shall be clearly stated in the plan. The plan shall not provide either for an exclusion from captured taxable value of a portion of the captured taxable value or for an exclusion of the tax levy of 1 or more taxing jurisdictions unless the tax levy is excluded from tax increment revenues in section 2(ss), or unless the tax levy is excluded from capture under section 15.

(d) The method by which the costs of the plan will be financed, including a description of any advances made or anticipated to be made for the costs of the plan from the municipality.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The proposed beginning date and duration of capture of tax increment revenues for each eligible property as determined under section 13b(16).

(g) An estimate of the future tax revenues of all taxing jurisdictions in which the eligible property is located to be generated during the term of the plan.

(h) A legal description of the eligible property to which the plan applies, a map showing the location and

dimensions of each eligible property, a statement of the characteristics that qualify the property as eligible property, and a statement of whether personal property is included as part of the eligible property. If the project is on property that is functionally obsolete, the taxpayer shall include, with the application, an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(i) Estimates of the number of persons residing on each eligible property to which the plan applies and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, the plan shall include a demographic survey of the persons to be displaced, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(j) A plan for establishing priority for the relocation of persons displaced by implementation of the plan.

(k) Provision for the costs of relocating persons displaced by implementation of the plan, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646.

(l) A strategy for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(m) Other material that the authority or governing body considers pertinent to the brownfield plan.

(3) When taxes levied for school operating purposes are subject to capture under section 15, the percentage of school operating tax increment revenues captured relating to a parcel of eligible property under a brownfield plan shall not be greater than the percentage of local tax increment revenues that are captured under the brownfield plan relating to that parcel of eligible property.

(4) Except as provided in subsection (5) and sections 8, 13b(4) and (5), and 13c(12), tax increment revenues related to a brownfield plan shall be used only for 1 or more of the following:

(a) Costs of eligible activities attributable to the eligible property that produces the tax increment revenues.

(b) Eligible activities attributable to any eligible property for property that is owned by or under the control of a land bank fast track authority or a qualified local unit of government.

(5) A brownfield plan shall not authorize the capture of tax increment revenue from eligible property after the year in which the total amount of tax increment revenues captured is equal to the sum of the costs permitted to be funded with tax increment revenues under this act or 30 years from the beginning date of the capture of the tax increment revenues for that eligible property, whichever occurs first, except that a brownfield plan may authorize the capture of additional local and school operating tax increment revenue from an eligible property if 1 or more of the following apply:

(a) During the time of capture described in this subsection for the purpose of paying the costs permitted under subsection (4) or section 13b(4).

(b) For not more than 5 years after the date specified in subdivision (a), for payment to the local brownfield revolving fund created under section 8.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 727, Imd. Eff. Dec. 30, 2002;—Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004;—Am. 2005, Act 101, Imd. Eff. July 22, 2005;—Am. 2006, Act 32, Imd. Eff. Feb. 23, 2006;—Am. 2006, Act 467, Imd. Eff. Dec. 20, 2006;—Am. 2007, Act 202, Imd. Eff. Dec. 27, 2007;—Am. 2010, Act 246, Imd. Eff. Dec. 14, 2010;—Am. 2010, Act 288, Imd. Eff. Dec. 16, 2010;—Am. 2012, Act 502, Imd. Eff. Dec. 28, 2012;—Am. 2016, Act 471, Eff. Apr. 5, 2017;—Am. 2017, Act 46, Eff. July 24, 2017.

Compiler's note: For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

125.2663a Cost recovery action.

Sec. 13a. Costs of a response activity paid with tax increment revenues that are captured pursuant to section 13(4) may be recovered from a party that is responsible for an activity causing a release. This state or an authority may undertake cost recovery for tax increment revenue captured. Before an authority or this state may institute a cost recovery action, it must provide the other with 60 days' notice. This state or an authority that recovers costs under this section shall apply those recovered costs to the following, in the following order of priority:

(a) The reasonable attorney fees and costs incurred by this state or an authority in obtaining the cost recovery.

(b) One of the following:

(i) If an authority undertakes the cost recovery action, the authority shall deposit the remaining recovered

funds into the local brownfield revolving fund created pursuant to section 8, if such a fund has been established by the authority. If a local brownfield revolving fund has not been established, the authority shall disburse the remaining recovered funds to the local taxing jurisdictions in the proportion that the local taxing jurisdictions' taxes were captured.

(ii) If this state undertakes a cost recovery action, this state shall deposit the remaining recovered funds into the revitalization revolving loan fund established under section 20108a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108a.

(iii) If this state and an authority each undertake a cost recovery action, undertake a cost recovery action jointly, or one on behalf of the other, the amount of any remaining recovered funds shall be deposited pursuant to subparagraphs (i) and (ii) in the proportion that the tax increment revenues being recovered represent local taxes and taxes levied for school operating purposes, respectively.

History: Add. 2016, Act 471, Eff. Apr. 5, 2017.

125.2663b Use of taxes captured from eligible property.

Sec. 13b. (1) An authority shall not expend tax increment revenues to acquire or prepare eligible property unless the acquisition or preparation is an eligible activity.

(2) An authority shall not enter into agreements with the taxing jurisdictions and the governing body of the municipality to share a portion of the taxes captured from an eligible property under this act. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues as specified in this act shall be binding on all taxing units levying ad valorem property taxes or specific taxes against property located in the zone.

(3) Tax increment revenues captured from taxes levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes levied by a local school district shall not be used to assist a land bank fast track authority with clearing or quieting title, acquiring, selling, or conveying property, except as provided in subsection (4).

(4) If a brownfield plan includes the use of taxes levied for school operating purposes captured from an eligible property for eligible activities that are not department specific activities, then 1 or more of the following apply:

(a) A combined brownfield plan or a work plan shall be approved by the Michigan strategic fund and a development agreement or reimbursement agreement between the municipality or authority and an owner or developer of eligible property is required before such tax increment may be used for infrastructure improvements that directly benefit eligible property, demolition of structures that is not response activity, lead, mold, or asbestos abatement that is not a department specific activity, site preparation that is not response activity, relocation of public buildings or operations for economic development purposes, or acquisition of property by a land bank fast track authority if acquisition of the property is for economic development purposes.

(b) Approval of a combined brownfield plan or a work plan by the Michigan strategic fund in the manner required under section 15(12) to (14) or (20) is required in order to use the tax increment revenues to assist a land bank fast track authority or qualified local governmental unit with clearing or quieting title, acquiring, selling, or conveying property.

(c) The combined brownfield plan or work plan to be submitted to the Michigan strategic fund under this subsection shall be in a form prescribed by the Michigan strategic fund.

(d) The eligible activities to be conducted and described in this subsection shall be consistent with the combined brownfield plan or work plan submitted by the authority to the Michigan strategic fund.

(e) The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this section.

(5) If a brownfield plan includes the use of taxes levied for school operating purposes captured from eligible property for department specific activities, a combined brownfield plan or a work plan must be approved by the department with the exception of those activities identified in subsections (8) and (9).

(6) An authority shall not do any of the following:

(a) Use taxes captured from eligible property to pay for eligible activities conducted before approval of the brownfield plan.

(b) Use taxes captured from eligible property to pay for administrative and operating activities of the authority or the municipality on behalf of the authority for activities, other than those identified in subsection (7).

(c) For eligible activities not described in subsection (4), an authority shall not use taxes levied for school operating purposes captured from eligible property unless the eligible activities to be conducted on the eligible property are eligible department specific activities, consistent with a combined brownfield plan or a

work plan approved by the department after July 24, 1996.

(d) Use construction period tax capture revenues, withholding tax capture revenues, or income tax capture revenues to pay for eligible activities conducted before approval of the transformational brownfield plan except for costs described in section 13c(10).

(e) Use construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues for any expense other than as provided for in section 13c(2), except for the reasonable costs for preparing a transformational brownfield plan and the additional administrative and operating expenses of the authority or municipality as are specifically associated with the implementation of a transformational brownfield plan. For purposes of this subsection, the reasonable costs of preparing a transformational brownfield plan include the reasonable costs of preparing an associated work plan, combined brownfield plan, and development or reimbursement agreement.

(7) An authority may use taxes captured from eligible property to pay for the administrative and operating costs under 1 or more of the following:

(a) Local taxes captured may be used for 1 or more of the following administrative and operating purposes:

(i) Reasonable and actual administrative and operating expenses of the authority.

(ii) Department specific activities conducted by or on behalf of the authority related directly to work conducted on prospective eligible properties prior to approval of the brownfield plan.

(iii) Reasonable costs of developing and preparing brownfield plans, combined plans, or work plans for which tax increment revenues may be used under subsection (4), including, but not limited to, legal and consulting fees that are not in the ordinary course of acquiring and developing real estate.

(b) Taxes levied for school operating purposes may be used for 1 or more of the following administrative and operating purposes:

(i) Reasonable costs of developing and preparing brownfield plans, combined brownfield plans, or work plans for which tax increment revenues may be used under section 13(4), including, but not limited to, legal and consulting fees that are not in the ordinary course of acquiring and developing real estate, not to exceed \$30,000.00.

(ii) Reasonable costs of brownfield plan or work plan implementation, including, but not limited to, tracking and reporting of data and plan compliance, not to exceed \$30,000.00.

(c) In each fiscal year of the authority, the amount of tax increment revenues attributable to local taxes that an authority can use for the purposes described in subdivisions (a) and (b) shall be determined as follows:

(i) For authorities that have 5 or fewer active projects, \$100,000.00.

(ii) For authorities that have 6 or more but fewer than 11 active projects, \$125,000.00.

(iii) For authorities that have 11 or more but fewer than 16 active projects, \$150,000.00.

(iv) For authorities that have 16 or more but fewer than 21 active projects, \$175,000.00.

(v) For authorities that have 21 or more but fewer than 26 active projects, \$200,000.00.

(vi) For authorities that have 26 or more but fewer than 31 active projects, \$300,000.00.

(vii) For authorities that have 31 or more active projects, \$500,000.00.

(d) Nothing contained in this subsection shall limit the amount of funds that may be granted, loaned, or expended by a local brownfield revolving fund for eligible activities.

(e) As used in this subsection, "active project" means a project in which the authority is currently capturing taxes under this act. The amounts of tax increment revenues attributable to local taxes listed in this subsection that an authority can use for the purposes described in this subsection may be increased by 2% for each written agreement entered into by an authority in either of the following situations up to a total maximum increase of 10%:

(i) The authority is an authority established by a county and that authority enters into a written agreement with 1 or more municipalities within that county to serve as the only authority for those other municipalities.

(ii) The authority enters into a written agreement with 1 or more other authorities to administer 1 or more administrative operations of those other authorities.

(8) The limitations of subsections (4), (5), and (6) upon the use of taxes levied for school operating purposes shall not apply to the costs of 1 or more of the following incurred by a person other than the authority:

(a) Site investigation activities required to conduct a baseline environmental assessment and to evaluate compliance with sections 20107a and 21304c of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a and 324.21304c.

(b) Completing a baseline environmental assessment.

(c) Preparing a plan for compliance with sections 20107a and 21304c of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a and 324.21304c.

(d) Performing pre-demolition and building hazardous materials surveys.

(e) Asbestos, mold, and lead surveys.

(9) The limitations of subsections (4), (5), and (6) upon the use of local taxes and taxes levied for school operating purposes shall not apply to the following costs and expenses:

(a) For tax increment revenues attributable to taxes levied for school operating purposes, eligible activities associated with unanticipated response activities conducted on eligible property if that eligible property has been included in a brownfield plan, if the department is consulted in writing on the unanticipated response activities before they are conducted and the costs of those activities are subsequently included in a brownfield plan, combined brownfield plan or a work plan or amendment approved by the authority and approved by the department.

(b) For tax increment revenues attributable to local taxes, any eligible activities conducted on eligible property or prospective eligible properties prior to approval of the brownfield plan, if those costs and the eligible property are subsequently included in a brownfield plan approved by the authority.

(c) For tax increment revenues attributable to taxes levied for school operating purposes, eligible activities described in subsection (4) and conducted on eligible property or prospective eligible properties prior to approval of the brownfield plan, if those costs and the eligible property are subsequently included in a brownfield plan approved by the authority and a combined brownfield plan or work plan approved by the Michigan strategic fund.

(10) An authority shall not use taxes levied for school operating purposes captured from eligible property for response activities that benefit a party responsible for an activity causing a release under section 20126 or 21323a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20126 and 324.21323a, except that a municipality that established the authority may use taxes levied for school operating purposes captured from eligible property for response activities associated with a landfill.

(11) A brownfield authority may reimburse advances, with or without interest, made by a municipality under section 7(3), a land bank fast track authority, or any other person or entity for costs of eligible activities with any source of revenue available for use of the brownfield authority under this act.

(12) A brownfield authority may capture taxes for the payment of interest, as follows:

(a) If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of eligible activities and interest thereon, the authority may capture local taxes for the payment of that interest.

(b) If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of department specific activities and interest thereon included in a combined brownfield plan or a work plan approved by the department, the authority may capture taxes levied for school operating purposes and local taxes for the payment of that interest.

(c) If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of eligible activities that are not department specific activities and interest thereon included in a combined brownfield plan or a work plan approved by the Michigan strategic fund, the authority may capture taxes levied for school operating purposes and local taxes for the payment of that interest provided that the Michigan strategic fund grants an approval for the capture of taxes levied for school operating purposes to pay such interest.

(13) An authority may enter into agreements related to these reimbursements and payments described in this section. A reimbursement agreement for these purposes and the obligations under that reimbursement agreement shall not be subject to section 13 or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(14) Notwithstanding anything to the contrary in this act, for a brownfield plan that includes the capture of taxes levied for school operating purposes from each eligible property included in a brownfield plan after January 1, 2013, an authority shall pay to the department of treasury at least once annually an amount equal to 50% of the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, including 50% of that portion of specific taxes attributable to, but not levied under, the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are captured under the brownfield plan until the expiration of the earlier of the following:

(a) Twenty-five years of capture of tax increment revenues from such eligible property included in the brownfield plan.

(b) The later of:

(i) The date of repayment of all eligible expenses relative to such eligible property.

(ii) The date excess capture is terminated under subsection (16).

(15) The department of treasury shall deposit the amounts described in subsection (14) into the state brownfield redevelopment fund. If an authority makes a payment as required under subsection (14) to the department of treasury, the local taxes levied on that parcel and used to reimburse eligible activities under a

brownfield plan shall not be increased or decreased due to that payment. If, due to an appeal of any tax assessment, an authority is required to reimburse a taxpayer for any portion of the amount paid to the department of treasury under this subsection, the department of treasury shall reimburse that amount to the authority within 30 days after receiving a request from the authority for reimbursement.

(16) The brownfield plan shall include a proposed beginning date of capture. The beginning date of capture of tax increment revenues shall not be later than 5 years following the date of the resolution including the eligible property in the brownfield plan. The authority may amend the beginning date of capture of tax increment revenues for a particular eligible property to a date not later than 5 years following the date of the resolution including the eligible property in the brownfield plan. The authority may not amend the beginning date of capture of tax increment revenues for a particular eligible property if the authority has begun to reimburse eligible activities from the capture of tax increment revenues from that eligible property. Any tax increment revenues captured from an eligible property before the beginning date of capture of tax increment revenues for that eligible property shall revert proportionately to the respective tax bodies. If an authority amends the beginning date for capture of tax increment revenues that includes the capture of tax increment revenues for school operating purposes, then the authority shall notify the department or the Michigan strategic fund, as applicable, within 30 days after amending the beginning date.

History: Add. 2016, Act 471, Eff. Apr. 5, 2017;—Am. 2017, Act 46, Eff. July 24, 2017.

125.2663c Transformational brownfield plan.

Sec. 13c. (1) Subject to the approval of the governing body and Michigan strategic fund under section 14a, the board may implement a transformational brownfield plan. The transformational brownfield plan may consist of a single development on eligible property or a series of developments on eligible property that are part of a related program of investment, whether or not located on contiguous parcels, and may be amended to apply to additional parcels of eligible property. Each amendment to a transformational brownfield plan shall be approved by the governing body of the municipality in which it is located and the Michigan strategic fund and shall be consistent with the approval requirements in this section.

(2) A transformational brownfield plan may authorize the use of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and tax increment revenues for eligible activities described in section 2(o)(iv). Except as provided for in section 13b(6)(d), tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues shall be used only for the costs of eligible activities included within the transformational brownfield plan to which the revenues are attributable, including the cost of principal of and interest on any obligation to pay the cost of the eligible activities.

(3) A transformational brownfield plan is a brownfield plan and, except as otherwise provided, is subject to sections 13, 13a, 13b, 14, and 15 of this act. In addition to the information required under section 13(2), a transformational brownfield plan shall contain all of the following:

- (a) The basis for designating the plan as a transformational brownfield plan under section 2(vv).
- (b) A description of the costs of the transformational brownfield plan intended to be paid for with construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues.
- (c) An estimate of the amount of construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues expected to be generated for each year of the transformational brownfield plan from the eligible property.
- (d) The beginning date and duration of capture of construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues for each eligible property as determined under subsections (8) and (11).

(4) Subject to section 14a(8), the transformational brownfield plan may provide for the use of part or all of the tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues. The portion of tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues to be used may vary over the duration of the transformational brownfield plan, but the portion intended to be used shall be clearly stated in the transformational brownfield plan.

(5) Approval of a transformational brownfield plan, or an amendment to a transformational brownfield plan, shall be in accordance with the notice, approval, and public hearing requirements of sections 14 and 14a, except that the governing body shall provide notice to the Michigan strategic fund not less than 30 days before the hearing on a transformational brownfield plan.

(6) If a transformational brownfield plan authorizes the use of construction period tax capture revenues, withholding tax capture revenues, or income tax capture revenues, approval of a combined brownfield plan or work plan by the Michigan strategic fund and a written development or reimbursement agreement between

the owner or developer of the eligible property, the authority, and the Michigan strategic fund are required. If a plan authorizes the use of tax increment revenues for eligible activities under section 2(o)(iv) other than eligible activities described in section 13b, approval of a work plan or combined brownfield plan by the Michigan strategic fund to use tax increment revenues for those additional eligible activities is required. A work plan or combined brownfield plan under this subsection shall be consolidated with a work plan or combined brownfield plan under section 13b(4). The eligible activities to be conducted shall be consistent with the work plan submitted by the authority to the Michigan strategic fund.

(7) Upon approval of the transformational brownfield plan by the governing body and Michigan strategic fund, and the execution of the written development or reimbursement agreement, the transfer and distribution of construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues as specified in this act and in the plan shall be binding on this state and the collection and transmission of the amount of tax increment revenues as specified in this act and in the plan shall be binding on all taxing units levying ad valorem property taxes or specific taxes against property subject to the transformational brownfield plan.

(8) A transformational brownfield plan shall not authorize the capture or use of tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, or income tax capture revenues after the year in which the total amount of the revenue captured under the transformational brownfield plan is equal to the sum of the costs permitted to be funded with the revenue under the transformational brownfield plan.

(9) The brownfield authority and Michigan strategic fund may reimburse advances, with or without interest, made by a municipality under section 7(3), a land bank fast track authority, or any other person or entity for costs of eligible activities included within a transformational brownfield plan using tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, or income tax capture revenues attributable to that plan. Upon approval of the Michigan strategic fund, the amount of tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues authorized to be captured under a transformational brownfield plan may include amounts required for the payment of interest under this subsection. A written development or reimbursement agreement shall be entered into under subsection (6) before any reimbursement or payment using tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, or income tax capture revenues may commence. A reimbursement agreement for these purposes and the obligations under that reimbursement agreement shall not be subject to section 12 or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(10) Eligible activities conducted on eligible property prior to approval of the transformational brownfield plan may be reimbursed from tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues if those costs and the eligible property are subsequently included in a transformational brownfield plan approved by the governing body and Michigan strategic fund, a combined brownfield plan or work plan approved by the Michigan strategic fund, and a written development or reimbursement agreement under subsection (6). Reimbursement under this subsection shall be limited to eligible expenses incurred within 90 days of the approval of the transformational brownfield plan by the Michigan strategic fund.

(11) The duration of the capture of withholding tax capture revenues and income tax capture revenues under a transformational brownfield plan for a particular eligible property shall not exceed the lesser of the period authorized under subsection (8) or 20 years from the beginning date of the capture of withholding tax capture revenues and income tax capture revenues for that eligible property. The beginning date for the capture of tax increment revenues, withholding tax capture revenues, and income tax capture revenues for an eligible property shall not be later than 5 years following the date the Michigan strategic fund approves the inclusion of the eligible property in a transformational brownfield plan. Subject to the approval of the governing body and Michigan strategic fund, the authority may amend the beginning date of capture of tax increment revenues, withholding tax capture revenues, and income tax capture revenues to a date not later than 5 years following the date the Michigan strategic fund approved inclusion of the eligible property in the transformational brownfield plan so long as capture of the revenues under the transformational brownfield plan has not yet commenced.

(12) For purposes of subsection (1), a series of developments on parcels that are not contiguous shall be considered a related program of investment if all of the following are met:

(a) The developments are proposed to be undertaken concurrently or in reasonable succession.

(b) For developments under affiliated ownership, the developments are reasonably contiguous and are part of a program of investment in a logically defined geography, including, but not limited to, a downtown district as defined in section 1 of 1975 PA 197, MCL 125.1651, or a principal shopping district or business

improvement district as defined in section 1 of 1961 PA 120, MCL 125.981, and including areas that are logically related to those districts and that will promote infill development.

(c) For developments under unrelated ownership, in addition to the criteria described in subdivisions (a) and (b), the developments are part of a master development plan, area plan, sub-area plan, or similar development plan that has been approved or adopted by resolution of the governing body.

(d) The designation of the developments as a related program of investment is consistent with the purposes of this act and is not a combination of unrelated or minimally related projects calculated to meet the minimum investment threshold.

(13) Where undeveloped property included in a transformational brownfield plan has been designated as a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, upon the request of the owner or developer of the eligible property and the local government unit that designated the zone, the Michigan strategic fund, and a city levying a tax under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, may elect under section 9(4) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2689, to terminate the exemptions, deductions, or credits provided for in section 9(1)(b) and (c) of that act, and reimburse the authority, or owner or developer of the eligible property, an annual amount equal to the revenue collected for each tax year as a result of the termination of the exemptions, deductions, or credits that would otherwise be in effect. In implementing this subsection, all of the following apply:

(a) The authority and Michigan strategic fund shall include amounts anticipated to be collected under this subsection in the income tax capture revenues authorized to be used under the transformational brownfield plan and associated work plan or combined brownfield plan.

(b) The state treasurer shall calculate for each tax year the amount of revenue the state of Michigan collected as a result of the operation of this subsection and shall deposit that amount as income tax capture revenues into the state brownfield redevelopment fund, where the funds shall be transmitted in the manner provided for in sections 8a(4) and 16(8).

(c) A city levying a city income tax under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, shall calculate for each tax year the amount of revenue the city collected as a result of the operation of this subsection and shall enter into a binding reimbursement agreement with the authority, and owner or developer of the eligible property, providing for the payment of the amounts to the authority, or the owner or developer of the eligible property, for eligible activities as provided for in the transformational brownfield plan. City income taxes administered by the department of treasury pursuant to the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, shall be subject to the procedures of subdivision (b) regarding the calculation and deposit of any revenue collected as a result of the operation of this subsection.

(d) The department of treasury may require the owner or developer to submit any information necessary for the calculation of revenue collected pursuant to the operation of this subsection. This state has no obligation for calculating revenues to be collected pursuant to the operation of this subsection where the required information is not reported.

(14) The authority and governing body are solely responsible for deciding whether to seek approval of a brownfield plan as a transformational brownfield plan. Nothing in this section or section 14a shall operate to prejudice or limit consideration of a brownfield plan under sections 13 and 14, including a decision by the Michigan strategic fund not to approve a plan as a transformational brownfield plan.

(15) Nothing in this act is intended to preclude an authority established by a county from seeking approval of a brownfield plan as a transformational brownfield plan. In the event that an authority established by a county seeks approval of a plan that extends into more than 1 of its component local units of government and that plan includes eligible property in more than 1 municipality that is not a county, the minimum investment requirements of section 2(vv) shall be established with reference to combined population of the municipalities that are not a county in which the eligible property is located.

History: Add. 2017, Act 46, Eff. July 24, 2017.

125.2664 Brownfield plan; approval; public hearing; record; notice; public purpose; determination; amendments to plan; validity of procedure, notice, and findings; presumption; abolishment or termination of plan.

Sec. 14. (1) Before approving a brownfield plan for an eligible property, the governing body shall hold a public hearing on the brownfield plan. By resolution, the governing body may delegate the public hearing process to the authority or to a subcommittee of the governing body subject to final approval by the governing body.

(2) Notice of the time and place of the hearing on a brownfield plan shall contain all of the following:

(a) A description of the property to which the plan applies in relation to existing or proposed highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the brownfield plan are available for public inspection at a place designated in the notice and that all aspects of the brownfield plan are open for discussion at the public hearing required by this section.

(c) Any other information that the governing body considers appropriate.

(3) At the time set for the hearing on the brownfield plan required under subsection (1), the governing body shall ensure that interested persons have an opportunity to be heard and that written communications with reference to the brownfield plan are received and considered. The governing body shall ensure that a record of the public hearing is made and preserved, including all data presented at the hearing.

(4) Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the taxing jurisdictions that levy taxes subject to capture under this act. The authority shall notify the taxing jurisdictions of the proposed brownfield plan. At that hearing, an official from a taxing jurisdiction with millage that would be subject to capture under this act has the right to be heard in regard to the adoption of the brownfield plan. Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the department if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities that require the approval of a combined brownfield plan or a work plan by the department under section 13b(6)(c) and the Michigan strategic fund, or its designee, if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities subject to section 13b(4).

(5) Not less than 10 days after notice of the proposed brownfield plan is provided to the taxing jurisdictions, the governing body shall determine whether the plan constitutes a public purpose. If the governing body determines that the plan does not constitute a public purpose, the governing body shall reject the plan. If the governing body determines that the plan constitutes a public purpose, the governing body may then approve or reject the plan, or approve it with modification, by resolution, based on the following considerations:

(a) Whether the plan meets the requirements of sections 13 and 13b.

(b) Whether the proposed method of financing the costs of eligible activities is feasible and the authority has the ability to arrange the financing.

(c) Whether the costs of eligible activities proposed are reasonable and necessary to carry out the purposes of this act.

(d) Whether the amount of captured taxable value estimated to result from adoption of the plan is reasonable.

(6) Except as provided in this subsection, amendments to an approved brownfield plan must be submitted by the authority to the governing body for approval or rejection following the same notice necessary for approval or rejection of the original plan. Notice is not required for revisions in the estimates of captured taxable value or tax increment revenues.

(7) The procedure, adequacy of notice, and findings with respect to purpose and captured taxable value shall be presumptively valid unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the brownfield plan. An amendment, adopted by resolution, to a conclusive plan shall likewise be conclusive unless contested within 60 days after adoption of the resolution adopting the amendment. If a resolution adopting an amendment to the plan is contested, the original resolution adopting the plan is not therefore open to contest.

(8) A brownfield plan or plan amendment may be abolished or terminated according to this subsection subject to all of the following:

(a) The governing body may abolish a brownfield plan when it finds that the purposes for which the plan was established are accomplished.

(b) The governing body may terminate a brownfield plan or plan amendment for an eligible property if the project for which eligible activities were identified in the brownfield plan or plan amendment fails to occur with respect to the eligible property for at least 2 years following the date of the resolution approving the brownfield plan or plan amendment, provided that the governing body first does both of the following:

(i) Gives 30 days' prior written notice to the developer at its last known address by certified mail or other method that documents proof of delivery attempted.

(ii) Provides the developer an opportunity to be heard at a public meeting.

(c) If a brownfield plan or plan amendment is terminated under subdivision (b), the governing body may approve a new brownfield plan or plan amendment for the eligible property under which tax increment revenues may be captured for up to the period of time provided under section 13(5).

(d) Notwithstanding anything in this subsection to the contrary, a brownfield plan or plan amendment shall not be abolished or terminated until the principal and interest on bonds issued under section 17 and all other obligations to which the tax increment revenues are pledged have been paid or funds sufficient to make the

payment have been identified or segregated.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2016, Act 471, Eff. Apr. 5, 2017.

125.2664a Transformational brownfield plan; approval and review by governing body and Michigan strategic fund.

Sec. 14a. (1) The governing body and Michigan strategic fund shall determine whether to approve a transformational brownfield plan in accordance with the provisions of this section.

(2) The governing body shall make an initial determination as to whether the transformational brownfield plan constitutes a public purpose in accordance with section 14(5). If the governing body determines the transformational brownfield plan does not constitute a public purpose, it shall reject the transformational brownfield plan.

(3) If the governing body determines that the transformational brownfield plan constitutes a public purpose, the governing body may then approve or reject the transformational brownfield plan, or approve it with modification, by resolution based on all of the following considerations:

(a) Whether the transformational brownfield plan meets the requirements of section 2(vv), which must include a determination that the transformational brownfield plan is calculated to, and has the reasonable likelihood to, have a transformational impact on local economic development and community revitalization based on the extent of brownfield redevelopment and growth in population, commercial activity, and employment that will result from the transformational brownfield plan.

(b) Whether the transformational brownfield plan meets the requirements of sections 13, 13b, and 13c.

(c) Whether the costs of eligible activities proposed are reasonable and necessary to carry out the purposes of this act.

(d) Whether the amount of captured taxable value, construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues estimated to result from adoption of the transformational brownfield plan are reasonable.

(e) Whether, based on an economic and fiscal impact analysis, the transformational brownfield plan will result in an overall positive fiscal impact to this state.

(f) Whether the transformational brownfield plan takes into account the criteria described in section 90b(4) of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090b.

(g) Whether subject to subsection (23)(d), the transformational brownfield plan includes provisions for affordable housing.

(4) Within 90 days of the completion of an administratively complete application and the analysis required under subsections (5) and (6), the Michigan strategic fund shall approve or reject the transformational brownfield plan, or approve it with modification, by resolution based on the criteria in subsection (3).

(5) In determining whether to approve a transformational brownfield plan under subsection (3)(c) and (d), the Michigan strategic fund shall conduct a financial and underwriting analysis of the developments included in the plan. The analysis shall consider both projected rental rates at the time of project delivery and potential increases in rental rates over time. The Michigan strategic fund shall not approve the use of construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues beyond the amount determined to be necessary for the project to be economically viable. The Michigan strategic fund shall develop standardized underwriting criteria for determining economic viability. The Michigan strategic fund shall take into account the impact of the sales and use tax exemptions under section 4d(n) of the general sales tax act, 1933 PA 167, MCL 205.54d, and section 4dd of the use tax act, 1937 PA 94, MCL 205.94dd, in determining the amount of construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues required for the project to be economically viable. The Michigan strategic fund shall ensure that each transformational brownfield plan includes a significant equity contribution from the owner or developer as determined by the fund.

(6) Except as otherwise provided in this section, the Michigan strategic fund shall not approve a transformational brownfield plan under subsection (3)(e) unless it determines that the transformational brownfield plan will result in an overall positive fiscal impact to this state. In making that determination, the Michigan strategic fund shall take into account both of the following:

(a) The potential displacement of tax revenue from other areas of this state.

(b) The effects of the transformational brownfield plan on economic development in the surrounding area.

(7) The Michigan strategic fund shall require an independent, third-party underwriting analysis under subsection (3)(d) and an independent, third-party fiscal and economic impact analysis under subsection (3)(e) for any plan that proposes to use more than \$1,500,000.00 in any year in withholding tax capture revenues and income tax capture revenues, as determined by the first full year of tax capture under the plan. The cost of the independent, third-party fiscal and economic impact analysis shall be paid by the owner or developer of

the eligible property. The Michigan strategic fund shall consult with the state treasurer prior to approving any transformational brownfield plan subject to this subsection. The state treasurer must concur that there is an overall positive fiscal impact to this state in order for the transformational brownfield plan to be approved. Nothing in this subsection shall limit the ability of the Michigan strategic fund to utilize independent, third-party analyses on plans not subject to this subsection.

(8) The Michigan strategic fund may not approve a transformational brownfield plan that proposes to use more than 50% of the withholding tax capture revenues or 50% of the income tax capture revenues unless the income tax capture revenues are attributable to the election under section 13c(13). The Michigan strategic fund may modify the amount of withholding tax capture revenues and income tax capture revenues before approving a transformational brownfield plan in order to bring the transformational brownfield plan into compliance with subsections (5) and (6).

(9) The Michigan strategic fund shall require the owner or developer of the eligible property to certify the actual capital investment, as determined in accordance with section 2(o)(iv) and section 2(vv), upon the completion of construction and before the commencement of reimbursement from withholding tax capture revenues, income tax capture revenues, or tax increment revenues, for the plan or the distinct phase or project within the plan for which reimbursement will be provided. If the actual capital investment is less than the amount included in the plan, the Michigan strategic fund shall review the determination under subsection (5) and may modify the amount of reimbursement if, and to the extent, such a modification is necessary to maintain compliance with subsection (5). The transformational brownfield plan, work plan, and development and reimbursement agreement shall include provisions to enforce the requirements and remedies under this subsection. If the actual level of capital investment does not meet the applicable minimum investment requirement under section 2(vv) and is outside of the safe harbor under subsection (16), the Michigan strategic fund may take 1 of the following remedial actions:

(a) For a plan that consists of a single development, reduce the amount of reimbursement under the plan.

(b) For a plan that consists of distinct phases or projects, where the failure to meet the minimum investment threshold is the result of failure to undertake additional distinct phases or projects as provided for in the plan, 1 or more of the following:

(i) Permanently rescind the authorization to use tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues for the additional distinct phases or projects in the plan.

(ii) If the Michigan strategic fund determines that the applicable owner or developer acted in bad faith, reduce the amount of reimbursement for completed phases of the plan.

(10) Upon approval by the Michigan strategic fund, the minimum investment requirements in section 2(vv) and limitation under subsection (23)(a) and (b) may be waived if the transformational brownfield plan meets 1 of the following criteria:

(a) Is for eligible property in an area approved by the state housing development authority as eligible for blight elimination program funding under the housing finance agency innovation fund for the hardest hit housing markets authorized pursuant to the emergency economic stabilization act of 2008, Public Law 110-343, 12 USC 5201 to 5261. For purposes of this subdivision, an area approved as eligible for blight elimination program funding means that specific portion or portions of a municipality where the Michigan state housing development authority approved the expenditure of blight elimination program funds pursuant to an application identifying the target areas.

(b) Is for eligible property in a municipality that was subject to a state of emergency under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421, issued for drinking water contamination.

(c) Is for eligible property that is a historic resource if the Michigan strategic fund determines the redevelopment is not economically feasible absent the transformational brownfield plan.

(d) Is for eligible property that is located in a city, village, or township with a population of less than 25,000 or that is otherwise eligible for the corresponding population tier in section 2(vv)(vi), as determined in accordance with subsection (16), if the Michigan strategic fund determines that the redevelopment is not economically feasible absent the transformational brownfield plan.

(11) In determining whether a plan under subsection (10) has a transformational impact for purposes of section 2(vv) and subsection (3)(a), the governing body and Michigan strategic fund shall consider the impact of the transformational brownfield plan in relation to existing investment and development conditions in the project area and whether the transformational brownfield plan will act as a catalyst for additional revitalization of the area in which it is located.

(12) The Michigan strategic fund may not approve more than 5 transformational brownfield plans under subsection (10) in a calendar year, except that if the Michigan strategic fund approves fewer than 5 plans in a calendar year under subsection (10), the unused approval authority shall carry forward into future calendar

years and remain available until December 31, 2022. The Michigan strategic fund also shall not approve more than 5 transformational brownfield plans under subsection (10) in any individual city, village, or township prior to December 31, 2022.

(13) Except as provided in this subsection, amendments to an approved transformational brownfield plan shall be submitted by the authority to the governing body and to the Michigan strategic fund for approval or rejection following the same notice necessary for approval or rejection of the original transformational brownfield plan. Notice is not required for revisions in the estimates of tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, or income tax capture revenues.

(14) Except as provided in this subsection, an amendment to an approved transformational brownfield plan under section 13c(1) shall not be considered a new plan approval subject to the limitation in subsection (23)(a). The Michigan strategic fund may consider an amendment as a new plan approval only where the amendment adds eligible property and the Michigan strategic fund determines that approving the addition as an amendment would be inconsistent with the purposes of this act.

(15) The procedure, adequacy of notice, and findings under this section shall be presumptively valid unless contested in a court of competent jurisdiction within 60 days after approval of the transformational brownfield plan by the Michigan strategic fund. An approved amendment to a conclusive transformational brownfield plan shall likewise be conclusive unless contested within 60 days after approval of the amendment by the Michigan strategic fund. If a resolution adopting an amendment to the transformational brownfield plan is contested, the original resolution adopting the transformational brownfield plan is not open to contest.

(16) The determination as to whether a transformational brownfield plan complies with the minimum investment requirements in section 2(vv) shall be made with reference to the most recent decennial census data available at the time of approval by the authority. A plan in a municipality that exceeds a population tier under section 2(vv) by not more than 10% of the maximum population for that tier shall, upon election of the authority, be subject to the investment requirement for that tier. A transformational brownfield plan that is expected to result in, or does result in, a total capital investment that is within 10% of the applicable minimum investment requirement shall be considered to satisfy the applicable requirement under section 2(vv).

(17) For purposes of a transformational brownfield plan, determination as to whether property is functionally obsolete as defined under section 2(u) may include considerations of economic obsolescence as determined in accordance with the Michigan state tax commission's assessor's manual.

(18) Any positive or negative determination by the Michigan strategic fund under this section shall be supported by objective analysis and documented in the record of its proceedings.

(19) The Michigan strategic fund shall charge and collect a reasonable application fee as necessary to cover the costs associated with the review and approval of a transformational brownfield plan.

(20) The Michigan strategic fund shall not commit, and the department of treasury shall not disburse, more than \$40,000,000.00 in total annual tax capture. For purposes of this subsection, "total annual tax capture" means the total annual amount of income tax capture revenues and withholding tax capture revenues that may be reimbursed each calendar year under all transformational brownfield plans. If the amount committed or disbursed in a calendar year is less than \$40,000,000.00, the difference between that amount and \$40,000,000.00 shall be available to be committed or disbursed in subsequent calendar years and shall be in addition to the annual limit otherwise applicable.

(21) The Michigan strategic fund shall not commit, and the department of treasury shall not disburse, a total amount of income tax capture revenues and withholding tax capture revenues that exceeds \$800,000,000.00.

(22) The Michigan strategic fund shall not approve more than a total of \$200,000,000.00 in construction period tax capture revenues and in projected sales and use tax exemptions under section 4d(n) of the general sales tax act, 1933 PA 167, MCL 205.54d, and section 4dd of the use tax act, 1937 PA 94, MCL 205.94dd. The Michigan strategic fund shall project the value of the sales and use tax exemptions under each transformational brownfield plan at the time of plan approval and shall require such information from the owner or developer as is necessary to perform this calculation. The Michigan strategic fund also shall require the owner or developer of the eligible property to report the actual value of the sales and use tax exemptions each tax year of the construction period and at the end of the construction period. If the value of the actual sales and use tax exemptions and construction period tax capture revenues under all transformational brownfield plans exceeds the limit of \$200,000,000.00 under this subsection by more than a de minimis amount, as determined by the state treasurer, the state treasurer shall take corrective action and may reduce future disbursements to achieve compliance with the aggregate limitation under subsection (21) and this subsection. The corrective action described in this subsection shall not reduce the disbursement for an individual plan by an amount that is more than the amount by which the value of the sales and use tax exemptions for that plan exceeded the amount projected at the time of plan approval and included in the plan.

The Michigan strategic fund and department of treasury shall prescribe specific methods for implementing this section within 60 days of the effective date of the amendatory act that added this section.

(23) The Michigan strategic fund shall comply with all of the following:

(a) Not approve more than 5 transformational brownfield plans in a calendar year, except that if the Michigan strategic fund approves fewer than 5 plans in a calendar year, the unused approval authority shall carry forward into future calendar years and remain available until December 31, 2022.

(b) Not approve more than 5 transformational brownfield plans in any individual city, village, or township prior to December 31, 2022.

(c) Ensure an equitable geographic distribution of plans approved under this subsection, which shall achieve a balance between the needs of municipalities of differing sizes and differing geographic areas of the state. Subject to the receipt of qualified transformational brownfield plans meeting the criteria under this section and section 13c, the Michigan strategic fund shall set a target that not less than 35% of the total transformational brownfield plans approved under this act prior to December 31, 2022 will be located in cities, villages, and townships with a population of less than 100,000.

(d) In coordination with the governing body, shall determine the appropriate provisions regarding affordable housing on a plan-by-plan basis.

(24) In the event of a proposed change in ownership of eligible property subject to a transformational brownfield plan for which reimbursement will continue, the approval of the Michigan strategic fund is required prior to the assignment or transfer of the development and reimbursement agreement.

(25) The Michigan strategic fund shall not provide community revitalization incentives under section 90b of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090b, to any project included in a transformational brownfield plan that has or will receive reimbursement for eligible activities pursuant to section 13c and this section.

(26) The Michigan strategic fund shall not approve any new transformational brownfield plans after December 31, 2022. A transformational brownfield plan approved prior to December 31, 2022 shall remain in effect and may be amended in accordance with the provisions of this act.

History: Add. 2017, Act 46, Eff. July 24, 2017.

125.2665 Work plan; documents to be submitted for approval; conditions for approval; written response; time limitations; department specific activities; review by department; approval or denial of work plan as final decision; appeal; approval by Michigan strategic fund; duties; criteria; failure to provide written response; final approval; report; distribution of remaining funds; extension of review period; approval of combined brownfield plan.

Sec. 15. (1) To seek department approval of a work plan under section 13b(6)(c), the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property, including a brief summary of site conditions and what is known about environmental contamination as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(2) Upon receipt of a request for approval of a work plan under subsection (1) or a portion of a work plan that pertains to only department specific activities, the department shall review the work plan according to subsection (3) and provide 1 of the following written responses to the requesting authority within 60 days:

(a) An unconditional approval.

(b) A conditional approval that delineates specific necessary modifications to the work plan to meet the criteria of subsection (3), including, but not limited to, individual activities to be modified, added, or deleted from the work plan and revision of costs. The department may not condition its approval on deletions from or modifications of the work plan relating to activities to be funded solely by tax increment revenues not attributable to taxes levied for school operating purposes.

(c) If the work plan lacks sufficient information for the department to respond under subdivision (a), (b), or (d) for any specific activity, a letter stating with specificity the necessary additions or changes to the work

plan to be submitted before that activity will be considered by the department. The department shall respond under subdivision (a), (b), or (d) according to this section for the other activities in the work plan.

(d) A denial if the property is not an eligible property under this act, if the work plan contemplates the use of taxes levied for school operating purposes prohibited by section 13b(10), or for any specific activity if the activity is prohibited by section 13b(6)(a). The department may also deny any activity in a work plan that does not meet the conditions in subsection (3) only if the department cannot respond under subsection (2)(b) or (c). The department shall accompany the denial with a letter that states with specificity the reason for the denial. The department shall respond under subsection (2)(a), (b), or (c) according to this section for any activities in the work plan that are not denied under this subdivision. If the department denies all or a portion of a work plan under this subdivision, the authority may subsequently resubmit the work plan.

(3) The department may approve a work plan if the following conditions have been met:

(a) Whether some or all of the activities constitute department specific activities other than activities that are exempt from the work plan approval process under section 13b(8).

(b) The department specific activities, other than the activities that are exempt from the work plan approval process under section 13b(8), are protective of the public health, safety, and welfare and the environment. The department may approve department specific activities that are more protective of the public health, safety, and welfare and the environment than required by section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a, if those activities provide public health or environmental benefit. In review of a work plan that includes department specific activities that are more protective of the public health, safety, and welfare and the environment, the department's considerations may include, but are not limited to, all of the following:

(i) Proposed new land use and reliability of restrictions to prevent exposure to contamination.

(ii) The cost to implement activities minimally necessary to achieve due care compliance, the total cost of response activities, and the incremental cost of department specific activities in excess of those activities minimally necessary to achieve due care compliance.

(iii) Long-term obligations associated with leaving contamination in place and the value of reducing or eliminating these obligations.

(c) The estimated costs for the activities as a whole are reasonable for the stated purpose. Except as provided in subdivision (b), the department shall make the determination in this subdivision only after the department determines that the conditions in subdivisions (a) and (b) have been met.

(4) If the department fails to provide a written response under subsection (2) within 60 days after receipt of a request for approval of a work plan, the authority may proceed with the activities as outlined in the work plan as submitted for approval. Except as provided in subsection (5), activities conducted pursuant to a work plan that was submitted to the department for approval but for which the department failed to provide a written response under subsection (2) shall be considered approved for the purposes of subsection (1). Within 45 days after receiving additional information requested from the authority under subsection (2)(c), the department shall review the additional information according to subsection (3) and provide 1 of the responses described in subsection (2) to the requesting authority for the specific activity. If the department does not provide a response to the requesting authority within 45 days after receiving the additional information requested under subsection (2)(c), the activity is approved under section 13b.

(5) The department may issue a written response to a work plan more than 60 days but less than 6 months after receipt of a request for approval. If the department issues a written response under this subsection, the authority is not required to conduct individual activities that are in addition to the individual activities included in the work plan as it was submitted for approval and failure to conduct these additional activities shall not affect the authority's ability to capture taxes under section 13b for the eligible activities described in the work plan initially submitted under subsection (4). In addition, at the option of the authority, these additional individual activities shall be considered part of the work plan of the authority and approved for purposes of section 13b. However, any response by the department under this subsection that identifies additional individual activities that must be carried out to satisfy part 201 or part 213 must be satisfactorily completed for the activities to be considered acceptable for the purposes of compliance with part 201 or part 213.

(6) If the department issues a written response under subsection (5) to a work plan and if the department's written response modifies an individual activity proposed by the work plan of the authority in a manner that reduces or eliminates a proposed response activity, the authority must complete those individual activities in accordance with the department's response in order for that portion of the work plan to be considered approved for purposes of section 13b, unless 1 or more of the following conditions apply:

(a) Obligations for the individual activity have been issued by the authority, or by a municipality on behalf of the authority, to fund the individual activity prior to issuance of the department's response.

(b) The individual activity has commenced or payment for the work has been irrevocably obligated prior to issuance of the department's response.

(7) It shall be in the sole discretion of an authority to propose to undertake department specific activities under subsection (3)(b) at an eligible property under a brownfield plan. The department shall not require a work plan to include department specific activities that are more protective of public health, safety, welfare, and the environment.

(8) The department shall review the portion of a work plan that includes department specific activities in accordance with subsection (3).

(9) The department's approval or denial of a work plan submitted under this section constitutes a final decision in regard to the use of taxes levied for school operating purposes but does not restrict an authority's use of tax increment revenues attributable to local taxes to pay for eligible activities under a brownfield plan. If a person is aggrieved by the final decision, the person may appeal under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(10) To seek Michigan strategic fund approval of a work plan under section 13b(4) or 13c(6), the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan or the transformational brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan, or part of a work plan, for each eligible activity described in section 13b(4) to be undertaken. For a transformational brownfield plan, the Michigan strategic fund shall prescribe the form and content for the work plan to address additional eligible activities under section 2(o)(iv).

(g) A copy of the development agreement or reimbursement agreement required under section 13b(4) or 13c(6), which shall include, but is not limited to, a detailed summary of any and all ownership interests, monetary considerations, fees, revenue and cost sharing, charges, or other financial arrangements or other consideration between the parties.

(11) Upon receipt of a request for approval of a work plan, the Michigan strategic fund shall provide 1 of the following written responses to the requesting authority within 60 days:

(a) An unconditional approval that includes an enumeration of eligible activities and a maximum allowable capture amount.

(b) A conditional approval that delineates specific necessary modifications to the work plan, including, but not limited to, individual activities to be added or deleted from the work plan and revision of costs.

(c) A denial and a letter stating with specificity the reason for the denial. If a work plan is denied under this subsection, the work plan may be subsequently resubmitted.

(12) In its review of a work plan under section 13b(4) or 13c(6), the Michigan strategic fund shall consider the following criteria to the extent reasonably applicable to the type of activities proposed as part of that work plan when approving or denying a work plan:

(a) Whether the individual activities included in the work plan are sufficient to complete the eligible activity.

(b) Whether each individual activity included in the work plan is required to complete the eligible activity.

(c) Whether the cost for each individual activity is reasonable.

(d) The overall benefit to the public.

(e) The extent of reuse of vacant buildings and redevelopment of blighted property.

(f) Creation of jobs.

(g) Whether the eligible property is in an area of high unemployment.

(h) The level and extent of contamination alleviated by or in connection with the eligible activities.

(i) The level of private sector contribution.

(j) If the developer or projected occupant of the new development is moving from another location in this state, whether the move will create a brownfield.

(k) Whether the project of the developer, landowner, or corporate entity that is included in the work plan is financially and economically sound.

(l) Other state and local incentives available to the developer, landowner, or corporate entity for the project of the developer, landowner, or corporate entity that is included in the work plan.

(m) Any other criteria that the Michigan strategic fund considers appropriate for the determination of eligibility or for approval of the work plan.

(13) If the Michigan strategic fund fails to provide a written response under subsection (11) within 60 days after receipt of a request for approval of a work plan or 90 days in the case of a transformational brownfield plan, the eligible activities shall be considered approved and the authority may proceed with the eligible activities described in sections 13b(4) and 13c(6) as outlined in the work plan as submitted for approval.

(14) The Michigan strategic fund approval of a work plan under sections 13b(4) and 13c(6) is final.

(15) The Michigan strategic fund shall submit a report each year to each member of the legislature as provided in section 16(4).

(16) All taxes levied for school operating purposes that are not used for eligible activities consistent with a combined brownfield plan or a work plan approved by the department or the Michigan strategic fund or for the payment of interest under sections 13 and 13b and that are not deposited in a local brownfield revolving fund shall be distributed proportionately between the local school district and the school aid fund.

(17) The department's approval of a work plan under subsection (2)(a) or (b) does not imply an entitlement to reimbursement of the costs of the eligible activities if the work plan is not implemented as approved.

(18) The party seeking work plan approval and the department can, by mutual agreement, extend the time period for any review described in this section. An agreement described in this subsection shall be documented in writing.

(19) If a brownfield plan includes the capture of taxes levied for school operating purposes, the chairperson of the Michigan strategic fund may approve, without a meeting of the fund board, combined brownfield plans and work plans that address eligible activities described in section 13b(4) totaling an amount of \$1,000,000.00 or less according to subsections (10), (11), (12), (13), and (14).

(20) In lieu of seeking approval of a work plan under section 13b(4) or (6)(c) or section 13c(6), an authority may seek approval of a combined brownfield plan from the department or Michigan strategic fund under this subsection as follows:

(a) To seek approval of a combined brownfield plan under this subsection, the authority shall, at least 30 days before the hearing on the combined brownfield plan to allow for consultation between the authority and the department or the Michigan strategic fund and at least 60 days in the case of a transformational brownfield plan, provide notice that the authority will be seeking approval of a combined brownfield plan in lieu of a work plan to 1 or more of the following:

(i) The department, if the combined brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities that require approval by the department under section 13b(6)(c).

(ii) The Michigan strategic fund, if the combined brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities subject to subsection (12) or section 13c(6), or the use of construction period tax capture revenues, withholding tax capture revenues, or income tax capture revenues.

(b) After the governing body approves a combined brownfield plan, the authority shall submit the combined brownfield plan to the department under the circumstances described in subdivision (a)(i) or Michigan strategic fund under the circumstances described in subdivision (a)(ii).

(c) The department shall review a combined brownfield plan according to subdivision (e). The Michigan strategic fund shall review a combined brownfield plan according to subdivision (f).

(d) Upon receipt of a combined brownfield plan under subdivision (b), the department or Michigan strategic fund shall provide 1 of the following written responses to the requesting authority within 60 days or, in the case of a transformational brownfield plan, within 90 days:

(i) An unconditional approval that includes an enumeration of eligible activities and a maximum allowable capture amount.

(ii) A conditional approval that delineates specific necessary modifications to the combined brownfield plan, including, but not limited to, individual activities to be added to or deleted from the combined brownfield plan and revision of costs.

(iii) A denial and a letter stating with specificity the reason for the denial. If a combined brownfield plan is denied under this subdivision, the combined brownfield plan may be subsequently resubmitted.

(e) The department may approve a combined brownfield plan if the authority submits the information identified in subsection (1) and if the conditions identified in subsection (3) are met.

(f) The Michigan strategic fund shall consider the criteria identified in subsection (12) to the extent reasonably applicable to the type of activities proposed as part of a combined brownfield plan when approving or denying the combined brownfield plan and, in the case of a transformational brownfield plan, shall also consider the criteria described in section 14a(3).

(g) If the department or Michigan strategic fund issues a written response to a requesting authority under subdivision (d)(i) or (ii), the governing body or its designee may administratively approve any modifications to a combined brownfield plan required by the written response without the need to follow the notice and

approval process required by section 14(6) unless the modifications add 1 or more parcels of eligible property or increase the maximum amount of tax increment revenues or, in the case of a transformational brownfield plan, construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues approved for the project.

(h) If the department or Michigan strategic fund fails to provide a written response under subdivision (d) within 60 days after receipt of a complete combined brownfield plan, or 90 days in the case of a transformational brownfield plan, the eligible activities shall be considered approved as submitted.

(i) The approval of a combined brownfield plan by the department or Michigan strategic fund under this subsection is final.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 727, Imd. Eff. Dec. 30, 2002;—Am. 2003, Act 283, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 101, Imd. Eff. July 22, 2005;—Am. 2006, Act 32, Imd. Eff. Feb. 23, 2006;—Am. 2007, Act 201, Imd. Eff. Dec. 27, 2007;—Am. 2012, Act 502, Imd. Eff. Dec. 28, 2012;—Am. 2016, Act 471, Eff. Apr. 5, 2017;—Am. 2017, Act 46, Eff. July 24, 2017.

Compiler's note: For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

125.2665a Retention and payment of taxes levied under state education tax act; conditions; use; application for approval by authority; information to be included; approval, modification, or denial of application by department of treasury; appropriation and distribution of amount; aggregate amount; lien; obligations; copy of application; calculations; legislative intent; definitions.

Sec. 15a. (1) If the amount of tax increment revenues lost as a result of the personal property tax exemptions provided by section 1211(1) and (4) of the revised school code, 1976 PA 451, MCL 380.1211, section 3 of the state education tax act, 1993 PA 331, MCL 211.903, section 14(4) of 1974 PA 198, MCL 207.564, and section 9k of the general property tax act, 1893 PA 206, MCL 211.9k, will reduce the allowable school tax capture received in a fiscal year, then, notwithstanding any other provision of this act, the authority, with approval of the department of treasury under subsection (3), may request the local tax collecting treasurer to retain and pay to the authority taxes levied within the municipality under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to be used for the following:

- (a) To repay an advance made before June 5, 2008.
- (b) To repay an obligation issued or incurred before June 5, 2008.
- (c) To pay or reimburse a developer or owner of eligible property or a municipality that created the authority for eligible activities pursuant to a development and reimbursement agreement entered into not before June 5, 2008.
- (d) To pay for eligible activities identified in a brownfield plan, or an amendment to that plan approved by board of the authority before September 3, 2008 if the plan contains all of the following and the work plan for the capture of school taxes has been approved before June 5, 2009:

- (i) A detailed description of the project.
 - (ii) A statement of the estimated cost of the project.
 - (iii) The specific location of the project.
 - (iv) The name of any developer of the project.
- (2) Not later than June 15 of each year, or for 2013 only, before March 28, 2014, an authority eligible under subsection (1) to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section, shall apply for approval with the department of treasury. The application for approval shall include the following information:

- (a) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.
- (b) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.
- (c) The tax increment revenues the authority estimates it would have received for that fiscal year if the personal property tax exemptions described in subsection (1) were not in effect.
- (d) A list of advances, obligations, development and reimbursement agreements, and projects included in brownfield plans described in subsection (1), and shall separately identify the payments due on each of those advances, obligations, development agreements, and eligible activities in that fiscal year, and the total amount of all the payments due on all of those in that fiscal year.

(e) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, or would be used for, the repayment of an advance, the payment of an obligation, the payment of eligible activities pursuant to a development and reimbursement agreement, or

the payment of eligible activities identified in a brownfield plan described in subsection (1). That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development plan.

(f) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(3) Not later than August 15 of each year, based on the calculations under subsection (5), the department of treasury shall approve, modify, or deny the application for approval to have taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, retained and paid to the authority under this section. If the application for approval contains the information required under subsection (2)(a) through (f) and appears to be in substantial compliance with the provisions of this section, then the department of treasury shall approve the application. If the application is denied by the department of treasury, then the department of treasury shall provide the opportunity for a representative of the authority to discuss the denial within 21 days after the denial occurs and shall sustain or modify its decision within 30 days after receiving information from the authority. If the application for approval is approved or modified by the department of treasury, the local tax collecting treasurer shall retain and pay to the authority the amount described in subsection (5) as approved by the department of treasury. If the department of treasury denies the authority's application for approval, the local tax collecting treasurer shall not retain or pay to the authority the taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. An approval by the department does not prohibit a subsequent audit of taxes retained in accordance with the procedures currently authorized by law.

(4) Each year the legislature shall appropriate and distribute an amount sufficient to pay each authority the following:

(a) If the amount to be retained and paid under subsection (3) is less than the amount calculated under subsection (5), the difference between those amounts.

(b) If the application for approval is denied by the department of treasury, an amount verified by the department equal to the amount calculated under subsection (5).

(5) Subject to subsection (6), the aggregate amount under this section shall be the sum of the amounts determined under subdivisions (a) and (b) minus the amount determined under subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received and retained for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if the personal property tax exemptions described in subsection (1) were not in effect, exceed the tax increment revenues the authority actually received for the fiscal year. For fiscal years beginning January 1, 2019 and thereafter, the amount under this subdivision shall be calculated using the greater of the following:

(i) The captured assessed value of industrial personal property, commercial personal property, and the personal property component of exemption certificates granted under 1974 PA 198, MCL 207.551 to 207.572, that are sited on property classified as either industrial or commercial, for the authority's fiscal year ending in the current year.

(ii) The 2013 captured assessed value of industrial personal property, commercial personal property, and the personal property component of exemption certificates granted under 1974 PA 198, MCL 207.551 to 207.572, that are sited on property classified as either industrial or commercial.

(b) A shortfall required to be reported under subsection (2)(f) that had not previously increased a distribution.

(c) An excess amount required to be reported under subsection (2)(f) that had not previously decreased a distribution.

(6) A distribution or taxes retained under this section replacing tax increment revenues pledged by an authority or a municipality are subject to any lien of the pledge described in subsection (1), whether or not there has been physical delivery of the distribution.

(7) Obligations for which distributions are made under this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(8) Not later than September 15 of each year, the authority shall provide a copy of the application for approval approved by the department of treasury to the local tax collecting treasurer and provide the amount of the taxes retained and paid to the authority under subsection (5).

(9) Calculations of amounts retained and paid and appropriations to be distributed under this section shall be made on the basis of each development area of the authority.

(10) The state tax commission may provide that the calculations under this section and the calculation of

allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

(11) It is the intent of the legislature that, to the extent that the total amount of taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are allowed to be retained under this section and sections 213c, 312b, and 411b of the recodified tax increment financing act, 2018 PA 57, MCL 125.4213c, 125.4312b, and 125.4411b, exceeds the difference of the total school aid fund revenue for the tax year minus the estimated amount of revenue the school aid fund would have received for the tax year had the tax exemptions described in subsection (1) and the earmark created by section 515 of the Michigan business tax act, 2007 PA 36, MCL 208.1515, not taken effect, the general fund shall reimburse the school aid fund the difference.

(12) As used in this section:

(a) "Advance" means that term as defined in section 201 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4201.

(b) "Obligation" means that term as defined in section 201 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4201.

History: Add. 2008, Act 154, Imd. Eff. June 5, 2008;—Am. 2014, Act 20, Imd. Eff. Feb. 25, 2014;—Am. 2016, Act 471, Eff. Apr. 5, 2017;—Am. 2018, Act 480, Imd. Eff. Dec. 27, 2018.

125.2666 Tax increment revenues; transmission to authority; expenditure; reversion of surplus funds; financial status report; collection and compilation of financial reports by department and Michigan strategic fund; reporting obligations; performance postaudit report by auditor general; report by owner or developer for active project within brownfield plan; requirements applicable to transformational brownfield plan.

Sec. 16. (1) The municipal and county treasurers shall transmit tax increment revenues to the authority not more than 30 days after tax increment revenues are collected.

(2) The authority shall expend the tax increment revenues received only in accordance with the brownfield plan. All surplus funds not deposited in the local brownfield revolving fund of the authority under section 8 shall revert proportionately to the respective taxing bodies, except as provided in section 15(16).

(3) The authority shall submit annually to the governing body, the department, and the Michigan strategic fund a financial report on the status of the activities of the authority for each calendar year. The report shall include all of the following:

(a) The amount and source of tax increment revenues received.

(b) The amount and purpose of expenditures of tax increment revenues.

(c) The amount of principal and interest on all outstanding indebtedness.

(d) The initial taxable value of all eligible property subject to the brownfield plan.

(e) The captured taxable value realized by the authority for each eligible property subject to the brownfield plan.

(f) The amount of actual capital investment made for each project.

(g) The amount of tax increment revenues attributable to taxes levied for school operating purposes used for activities described in section 13b(6)(c), section 2(o)(i)(H), and section 2(o)(i)(B) and (C).

(h) The number of residential units constructed or rehabilitated for each project.

(i) The amount, by square foot, of new or rehabilitated residential, retail, commercial, or industrial space for each project.

(j) The number of new jobs created at the project.

(k) All additional information that the governing body, the department, or the Michigan strategic fund considers necessary.

(4) The department and the Michigan strategic fund shall collect the financial reports submitted under subsection (3), compile a combined report, which includes the use of local taxes, taxes levied for school operating purposes, and the state brownfield redevelopment fund, based on the information contained in those reports and any additional information considered necessary, and submit annually a report based on that information to each member of the legislature.

(5) Beginning on January 1, 2013, all of the following reporting obligations apply:

(a) The department shall on a quarterly basis post on its website the name, location, and amount of tax increment revenues, including taxes levied for school operating purposes, for each project approved by the department under this act during the immediately preceding quarter.

(b) The Michigan strategic fund shall on a quarterly basis post on its website the name, location, and amount of tax increment revenues, including taxes levied for school operating purposes, for each project

approved by the Michigan strategic fund under this act during the immediately preceding quarter.

(6) In addition to any other requirements under this act, not less than once every 3 years beginning not later than June 30, 2008, the auditor general shall conduct and report a performance postaudit on the effectiveness of the program established under this act. As part of the performance postaudit, the auditor general shall assess the extent to which the implementation of the program by the department and the Michigan strategic fund facilitate and affect the redevelopment or reuse of eligible property and identify any factors that inhibit the program's effectiveness. The performance postaudit shall also assess the extent to which the interpretation of statutory language, the development of guidance or administrative rules, and the implementation of the program by the department and the Michigan strategic fund is consistent with the fundamental objective of facilitating and supporting timely and efficient brownfield redevelopment of eligible properties.

(7) The owner or developer for an active project included within a brownfield plan must annually submit to the authority a report on the status of the project. The report shall be in a form developed by the authority and must contain information necessary for the authority to report under subsection (3)(f), (h), (i), (j), and (k). The authority may waive the requirement to submit a report under this subsection. As used in this subsection, "active project" means a project for which the authority is currently capturing taxes under this act.

(8) For a transformational brownfield plan, all of the following shall also apply:

(a) The state treasurer shall transfer to the state brownfield redevelopment fund each fiscal year an amount equal to the construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues under all approved plans as provided for in section 8a(4). Funds shall be transmitted to the authority, or owner or developer of the eligible property to which the revenues are attributable, within 30 days of transfer to the state brownfield redevelopment fund.

(b) The authority, the department, and the Michigan strategic fund shall follow the reporting requirements of subsections (3), (4), and (5) with respect to all approved transformational brownfield plans, and shall provide information on the amount and use of construction period tax capture revenues, withholding tax capture revenues, and income tax capture revenues to the same extent required for tax increment revenues.

(c) The owner or developer of active projects included within a transformational brownfield plan shall provide the information required for the authority, the department, and the Michigan strategic fund to satisfy the reporting and audit requirements of this section.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2007, Act 203, Imd. Eff. Dec. 27, 2007;—Am. 2012, Act 502, Imd. Eff. Dec. 28, 2012;—Am. 2016, Act 471, Eff. Apr. 5, 2017;—Am. 2017, Act 46, Eff. July 24, 2017.

125.2667 Authorization, issuance, and sale of tax increment bonds and notes.

Sec. 17. (1) By resolution of its board, the authority may authorize, issue, and sell its tax increment bonds and notes, subject to the limitations set forth in this section, to finance the purposes of a brownfield plan. The bonds or notes shall be payable in the manner and upon the terms and conditions determined, or within the parameters specified, by the authority in the resolution authorizing issuance of the bonds or notes. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds or notes may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution.

(2) The municipality, by majority vote of the members of its governing body, may make a limited tax pledge to support the authority's tax increment bonds or notes or, if authorized by the voters of the municipality, may pledge its unlimited tax full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds or notes.

(3) The bonds or notes issued under this section shall be secured by 1 or more sources of revenue identified in section 7 as sources of financing of activities of the authority, as provided by resolution of the authority.

(4) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for 1 or more of the purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is supplemental and in addition to all other authority granted by law.

(5) The bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except section 503 of the revised municipal finance act, 2001 PA 34, MCL 141.2503.

(6) For bonds issued under this act, the first principal amount maturity date or mandatory redemption date shall be not later than 5 years after the date of issuance and some principal amount shall mature or be subject to mandatory redemption in each subsequent year of the term of the bond.

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2002, Act 413, Imd. Eff. June 3, 2002.

Compiler's note: The following communication was received:

"September 12, 1999

The Honorable John Engler

Capitol Building

Lansing, Michigan

Subject: PA 381 of 1996

Dear Governor Engler:

A review of the Senate and House Journals has revealed an error in Enrolled Senate Bill 923, which was filed with the Secretary of State on July 24, 1996, and assigned Public Act No. 381 of 1996. The bill presented to the Governor on July 17, 1996, did not accurately reflect what was agreed to by both houses of the Legislature. Specifically, Section 17, subsection (1), the third sentence incorrectly stated:

'The terms of the municipal finance act, Act No. 202 of the Public Acts of 1943, apply to bonds issued under this section.'

The sentence agreed to by both houses is:

'Except for the requirement of the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws, that the authority receive the approval or an exception from approval from the department of treasury prior to the issuance of bonds under this subsection, the terms of Act No. 202 of the Public Acts of 1943 shall not apply to bonds issued under this section.'

Therefore, we are presenting a correct Enrolled Senate Bill 923 for your signature and filing with the Secretary of State. Upon filing, the defective Enrolled Senate Bill 923 will be replaced with the correct Enrolled Senate Bill 923 and assigned the same public act number. The effective date of the Public Act No. 381 of 1996 will be the date the correct bill is filed.

This procedure ensures the integrity of the process while providing notification to the public. We apologize for any inconvenience this may have caused you or the citizens of the state of Michigan. If you have any questions, please feel free to contact us.

Sincerely,

Carol Morey Viventi Melvin J. DeStigter

Secretary of the Senate Clerk of the House of Representatives

cc: Candice S. Miller, Secretary of State"

125.2668 Operating budget.

Sec. 18. (1) The authority shall prepare and approve a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Funds of a municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body of the municipality.

(2) The governing body of a municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the authority under an appropriate item in its budget.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2669 Dissolution of authority; distribution of tax revenues and interest.

Sec. 19. (1) An authority that completes the purposes for which it was organized shall be dissolved by resolution of the governing body. Except as provided in subsection (2), the property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the municipality or to an agency or instrumentality designated by resolution of the municipality.

(2) Tax increment revenues and the interest earned on tax increment revenues shall be distributed as provided under section 16(2).

History: 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000.

125.2670 Enforcement proceedings.

Sec. 20. The state tax commission may institute proceedings to compel enforcement of the requirements of this act.

History: 1996, Act 381, Eff. Sept. 16, 1996.

125.2671 Repealed. 2016, Act 471, Eff. Apr. 5, 2017.

Compiler's note: The repealed section pertained to prohibition against capturing tax increment revenues from taxes levied before December 31, 1996.

125.2672 Repealed. 2016, Act 471, Eff. Apr. 5, 2017.

Compiler's note: The repealed section pertained to conditional effective date.