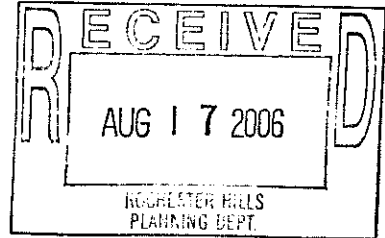


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ASTI ENVIRONMENTAL

Memo



To: Derek Delacourt, City of Rochester Hills
From: Tom Wackerman, ASTI Environmental
Date: 8/17/2006
Re: Review of *CMI Grant Application, Madison Park (Former Veterans and BFI Landfills)*,
Submitted August 3, 2006 and Prepared By REI Brownstown LLC

ASTI Environmental (ASTI) has completed your requested review of the CMI Grant Application and MDEQ comments on that application dated August 16, 2006.

Summary

The main objection provided by the MDEQ is that activities conducted prior to the approval of the grant/loan, or activities conducted prior to work plan approval by the MDEQ, although included in the application, are not eligible for reimbursement. Although this is stipulated in the regulation, and is the approach used at other communities, there is an exception provided in Act 451 as described below.

324.20108b Revitalization revolving loan program:

(3) "...**Unless otherwise approved by the director**, only activities carried out and costs incurred after execution of a loan agreement are eligible" (*emphasis added*).

However, some of the MDEQ comments may be applicable regardless of the above exemption. Section 324.20108b also states that; "All eligible activities must be consistent with a work plan or remedial action plan **approved in advance by the department** under this part or pursuant to Section 15 of the brownfield redevelopment financing act" (*emphasis added*). As such, regardless of the date of the loan/grant approval, if they were not conducted according to a plan (assuming a plan would be required), they would not be eligible.

A review of costs for eligible activities listed in the application was not possible, due to the different descriptions used in the brownfield tax plans and the CMI application. This was further complicated by the fact that the funding summary (page 9) does not include specific items to be funded by the \$30,000,000 tax credit. (A category "BRA Funds" is included in the funding summary but only indicates \$18,319,750 in expenses)

Clarification Needed

In addition to the MDEQ requested information, the following additions or changes need to be incorporated into the new application or plans and provided to the MDEQ by August 25, 2006.

- The total cost for "Investigation" funds on page 9 should read \$1,034,000.
- Some activities listed on the Grant/Loan Funding Request form should include descriptions as to how they comply with the eligibility definition. Activities are only eligible if they are "...evaluation and demolition at the property...and interim response activities required to facilitate evaluation and demolition...". All line items should be activity based, or refer to a work plan action item.
- "Relocation of waste on-site" is referred to in the application. There is no previous mention of relocation of waste in the Brownfield Plan or 381 Work Plan that we can find. If this refers to removal and off-site disposal then it should be reworded to be consistent with existing plans. If it involves on-site relocation, then additional procedures and precautions will be needed in the plans. (Section 7)
- Excavation of "excess overburden" on the northern portion, and the fact that the landfill will be "re-graded or reshaped as necessary", are referred to in the application. If these are referring to the balancing of existing cap materials as described in previous discussions, then it should be reworded to reflect that restriction. If they refer to possible excavation or exposure of waste material outside of the new, limited, excavation area, then additional procedures and precautions will be needed in the plans. (Section 7)
- The application indicates that "Phase II areas will be capped with a temporary 1' clay cap". This is inconsistent with the revised cap design to be presented at the August 17, 2006 meeting and should be reworded. (Section 7)
- The "request for written authorization from the Director" was not included in my copy of the applications. It may have been missing from the copy submitted to the MDEQ and, if so, should be included in the next submission. (Section 7)
- Dates for pre-construction site activities should be modified to reflect the actual schedule. (Section 8)
- Eligible activities should have consistent descriptions between Table IV. "Funding" on page 9 and the Grant/Loan Funding Request table within the application, and between the application and the brownfield plans and tax credit tables. Amounts for each activity should also be consistent between the plans and the application.

Action Items

The clarifications listed above will need to be made to the application if it is to be reconsidered by the MDEQ. More importantly, the following action items will need to be completed by the City before the August 25, 2006 deadline for this application to be considered complete. These action items have long lead times, or require input from other groups, and therefore have additional urgency.

- Modification to the Brownfield Plan to make it consistent with the new design and cost and operating assumptions. This modified Plan will then have to be approved by the BRA and City. The modifications could be based on the October 2005 version of the 381 Work Plan, but as you know, a new modified plan is being presented at the August 17, 2006 meeting.
- A resolution by the City verifying that the project will be undertaken if funded, and that it is consistent with the local development/redevelopment plans, and the existing zoning.
- A resolution committing the City's full faith and credit to the funding. It is assumed from the application, regulatory limits, and the MDEQ comments, that this funding will be for \$2,000,000 and that an additional request will be made next year for the balance of the requested \$4,000,000 total.
- Although not required by the August 25 deadline, the City must then select and contract with an environmental consultant to prepare work plans and complete the funded environmental services on behalf of the City. This means, given the cost items included in the request, that the City would be implementing at least some of the monitoring programs included in the 381 Work Plan (specifically Site Assessment, air quality, groundwater monitoring, methane monitoring, and possibly soils and waste monitoring associated with the soil management program). As such, it may be prudent to also have an agreement in principle on the extent of the monitoring required in the 381 Work Plan, and therefore the reasonableness of the funding, prior to the August 25 deadline.