

# MEMORANDUM

To: Rochester Hills City Council

From: Richard A. Wendt, Dickinson Wright PLLC, Special Counsel

Client: City of Rochester Hills

Re: Brownfield Plan for Former Cardinal/Veterans's Landfill Site

Date: May 12, 2004

---

This memorandum is written in response to the written comments you received from Grand Sakwa Acquisitions, L.L.C. ("Grand Sakwa"), dated April 7, 2004, related to the above-referenced Brownfield Plan.

At the onset, it is important to note two points. First, the Brownfield Plan is not the plan of the developer, REI Brownstone, LLC, as implied in the written comments, but is the plan of the City of Rochester Brownfield Redevelopment Authority (the "Authority"). Second, the Brownfield Plan is just that – a "plan." It sets forth a "roadmap" for accomplishing the completion of the eligible activities set forth in the Plan. The specifics of the Brownfield Plan will be contained within a work plan to be approved by the Authority and the Michigan Department of Environmental Quality ("MDEQ") and a reimbursement agreement between REI, the City and the Authority which will require approval by both the Authority and the City Council.

The written comments of Grand Sakwa contend that the activities proposed are not "eligible activities" under the Brownfield Redevelopment Financing Act or are not the most cost effective. Such comments, of course, are just conjecture. Since the work plan identifying such activities must be submitted to MDEQ for review and approval, I suggest it is appropriate for the City and Authority to rely on the MDEQ's determination of eligible activities.

The written comments also suggest that the Plan is deficient in its description as to how the cost of eligible activities will be financed. The Plan clearly provides that such costs will be reimbursed from, and only from, tax increment revenues generated from REI's property. Projections of such tax increment revenues are included as an attachment to the Plan. The details of how such reimbursement will work will be contained within the reimbursement agreement to be later approved by both the Authority and the City Council. Contrary to the suggestion in the written comments of Grand Sakwa, these costs will not be financed at large by the taxpayers. The only taxes used for such costs will be the tax increment revenues generated by REI's development.

The written comments also suggest that the Plan costs may be increased without amendment of the Plan. That is incorrect. Paragraph 6 of the Plan indicates that in the event

eligible activities exceed \$30,000,000 plus interest the Plan would need to be amended to include such increased costs. This would require approval and recommendation by the Authority and approval by the City Council after another public hearing.

The written comments further suggest that the proposal of paying for eligible activities from tax increment revenues is not feasible. However, based on projections of tax increment revenues contained as an attachment to the Plan, it is projected that total tax increment revenues generated over the 30-year potential life of the Plan by REI's development is in excess of \$200,000,000.

The Plan appropriately addresses each of those items required to be addressed in a Brownfield Plan by Section 13(1) of the Brownfield Redevelopment Financing Act.