

# MEMO

ASTI Environmental

**Date:** January 30, 2018

**To:** Sara Roediger, City of Rochester Hills  
Pam Valentik, City of Rochester Hills

**From:** Tom Wackerman

**Subject:** Review of Updated Draft Brownfield Plan and Associated Documents for Redevelopment of the Northeast Corner of Hamlin and Adams Roads, Rochester Hills, Michigan (ASTI files No. 9675-21)

As requested, this memo is a review of the following draft documents:

1. Draft *Brownfield Plan, Parcels 15-29-101-022 and 15-29-101-023, Northeast Corner of Hamlin and Adams Roads, Rochester Hills, Michigan*, dated November 9, 2017 (**the Plan**). ASTI Environmental reviewed previous drafts dated July 27, 2017, September 12 and October 6 in the memos dated August 8, 2017, September 29, and November 6 respectively.
2. Draft *Act 381 Work Plan, To Conduct MDEQ Environmental Activities, Hamlin-Adams Redevelopment Project, Northeast Corner of Hamlin and Adams Roads, Rochester Hills, Michigan 48309* dated September 12, 2017 (**the 381 Work Plan**).
3. Draft Amended Consent Judgment for Case No. 04-060730-CZ dated January 30, 2018 (**the ACJ**).

The following documents were also provided by the applicant and are included in this review:

- Letter to Mr. Thomas Wackerman from AKT Peerless dated September 5, 2017, titled Previous Environmental Investigations, Northeast Corner of Hamlin and Adams Roads, Rochester Hills, Michigan, AKT Peerless Project No. 3679F6 including the following attachments:
  - Site Map with Historical Subsurface Investigation Activities, dated 9/6/17 (with overlay of proposed development)
  - Summary Table of Soil Analytical Results from June 2017
- Draft *Limited Soil Gas Investigation* for GCI Construction, LLC dated May 16, 2017
- Draft *Phase I ESA* for Parcels 15-29-101-022 and 15-29-101-023 for GCI Acquisitions LLC and Goldberg Companies LLC dated January 13, 2017.
- *Baseline Environmental Assessment*, Parcel 15-29-101-022 for DBB Hamlin, LLC dated October 21, 2016. (Parcel A only)
- *Baseline Environmental Assessment* for 15-29-101-023 for DBB Adams, LLC dated October 21, 2016. (Parcel B only)
- Letter to Ms. Jean M. Greensly at the USEPA from AKT Peerless dated February 20, 2008, titled *PCB Migration Risk at Chistenson Landfill, Northeast Corner of Hamlin and Adams Roads, Rochester Hills, Michigan*.



10448 Citation Drive, #100  
P.O. Box 2160  
Brighton, Michigan 48116  
Phone: 810.225.2800 Fax: 810.225.3800

- *Additional Assessment Report, 28-Acre Vacant Parcel* for Hamlin & Adams Properties, LLC dated October 9, 2007
- *Baseline Environmental Assessment* for 27-Acre Vacant Property for Hamlin\Adams Properties, LLC dated November 10, 2005.
- Letter to Ms. Cheryl Wilson at the MDEQ from Dean & Fulkerson dated December 13, 1997, titled *Partial Closure Request for Christianson/Adams Road Facility*.
- Letter to Mr. Joe Balous from Michigan Department of Natural Resources dated May 31, 1995, titled *Christianson/Adams Road Dumpsite, Oakland County, MERA #630015*
- Letter to Mr. Greg Smith at GBS Associates from Michigan Department of Natural Resources dated December 2, 1991, titled *Act 307 27.5 acre parcel: "Christiansen/Adams Dumpsite", Rochester Hills, Oakland County, MI*.
- Letter to Mr. Roman Halanski from Michigan Department of Natural Resources dated March 30, 1989, titled *Christianson & Adams Road Dump, Hamlin Road at Adams Road, Rochester, Michigan*
- *Site Assessment for Christenson Landfill, Oakland County*, dated September 1984 with cover letter to Mr. Andrew Hogarth, MDNR from USEPA dated March 24, 1986, titled *Christenson Landfill, Oakland County, MI*.

### Background

The Plan and the 381 Work Plan include two parcels (the Property) located on the northeast corner of Hamlin Road and Adams Road (Parcel ID Numbers 15-29-101-022 and 15-29-101-023). The Property parcels have been referred to as the "West Parcel" (15-29-101-022) at approximately 18.9 acres, and the "East Parcel" (15-29-101-023) at approximately 9.3 acres. A portion of the "East Parcel", described as the "fenced area", has historically been presumed to be the location of highest environmental impacts. The "East Parcel" has also been known as the former Christianson-Adams Landfill.

Based on meetings subsequent to the Plan, the proposed redevelopment of the Property will be a residential apartment complex with up to 368 units (reduced from 400 in the Plan) and a separate natural open area (the Project). Although final plans are not yet available, an updated site plan (December 7<sup>th</sup>) indicates that there will be approximately 7 apartment buildings, several detached garage buildings, a pool amenity area, playground, dog park, retention pond, underground detention area, various bioswales, and open space area.

The residential component of the Project will redevelop all of the West Parcel and approximately half of the East Parcel. This portion of the Project is referred to as Parcel A. Parcel A may be split in the future into Phases 1 and 2. The remaining eastern half of the East Parcel is referred to as Parcel B. Parcel B will be created prior to commencement of the Project, and will be maintained as natural open area with the potential surface parking to augment recreational activities on the adjacent City owned property. The boundaries of Parcels A and B have not yet been finalized, but the Plan illustrates Parcel B to include the majority of the "fenced area" and some property along Hamlin Road.

The total estimated investment is \$50 million. Total job creation is estimated at 10 full time jobs and 400 temporary construction jobs. The listed initial taxable value is \$37,440. The future taxable value is based on 30% of the total capital investment, as approved during discussions with the City of Rochester Hills assessor, at \$4,511,232.

The Plan will start capture in 2019 and will require an estimated 23 years for reimbursement to the Developer. The Plan is requesting total reimbursement to the Developer of \$14,201,575 (based on



10448 Citation Drive, #100  
 P.O. Box 2160  
 Brighton, Michigan 48116  
 Phone: 810.225.2800 Fax: 810.225.3800

eligible activity costs of \$8,328,415, a contingency of \$1,245,172, and interest costs of \$4,581,988). Capture includes RHBRA administrative fees each year of \$10,000, and contributions to the local revolving loan fund each year at 3% of the annual capture, as per the RHBRA policy.

This Plan is for the capture of non-school (local) and school taxes, not including non-capturable millages. Capture of school taxes will require approval by the state of a 381 Work Plan. In the event that school tax capture is not approved for an eligible activity, reimbursement from local taxes will not change because reimbursement is limited to the proportional share of the local taxes.

### **Basis for Eligibility**

Based on the following, the Project is eligible.

*Eligible Applicant:* The Plan indicates that a Phase I ESA was completed in January of 2017, and this review assumes that it was complete for the application, Goldberg Companies, Inc. (the Developer). The Developer has not completed a Baseline Environmental Assessment for the Property, but the Plan indicates that the BEA will be completed prior to purchase.

*Eligible Property:* Each of the two parcels is a “facility” as defined by Part 201 and therefore each is an eligible property.

*Eligible Activities:* The Plan includes capture for eligible activities applicable in a non-core community.

### **Required Items**

All items required by Section 13(1) of Act 381 (MCL 125.2663) are included in the Brownfield Plan

### **Key Assumptions**

1. The Plan assumes an annual appreciation of 2.1% in taxable value. Changes in this assumption will result in a longer or shorter reimbursement period.
2. The Plan includes 5% simple interest on the outstanding balance each year, to be paid after reimbursement for eligible activities. If interest is not approved, the Plan will require an estimated 17 years for reimbursement.
3. Tax capture is assumed to include personal property. The Plan estimates that the amount of personal property is anticipated to be small. Inclusion of personal property tax capture may result in a shorter reimbursement period.
4. The Plan assumes that the property will be split prior to construction into two parcels and that these parcels may not be owned by the same entity.

### **Eligible Activities**

All activities described in the Plan and listed for reimbursement are eligible activities in a non-core community.

### **Environmental Control and Remediation**

The Property has been the subject of environmental investigations since at least 1984. The EPA, the Michigan Department of Natural Resources, and various private consultants have conducted soil and groundwater investigations. The most recent investigation was in 2017, and additional assessment will be conducted as part of this Project. Therefore, the selected remedies may be modified as a result of future investigations.



10448 Citation Drive, #100  
 P.O. Box 2160  
 Brighton, Michigan 48116  
 Phone: 810.225.2800 Fax: 810.225.3800

In addition to the remedial activities described below, a Soil Erosion and Sedimentation Control Plan, and a Fugitive Dust Emission Control and Contingency Plan will be prepared and implemented for the entire Project during site remedial actions.

According to the Plan, remediation of Parcel A will be completed to unrestricted residential criteria as defined by Part 201, and a No Further Action letter will be obtained from the MDEQ following remediation. Remediation costs in the Plan associated with Parcel A total \$4,404,000 and will take approximately 3 to 4 months to complete. Eligible activities on Parcel A are expected to be conducted in 2018. This will include the following:

- Removal and off-site disposal of approximately 43,668 yd<sup>3</sup> of soil, removal and off-site disposal of associated perched groundwater, and backfill in six source areas (Areas A, B, C, D, and F in Figure 3).
- Removal and off-site disposal of approximately 1,500 yd<sup>3</sup> of soil, removal and off-site disposal of associated perched groundwater, and backfill in six hot spots.
- Installation of a MDEQ approved passive vent system below all residential buildings. An Operation and Maintenance Plan (O&M Plan) will be prepared for the sub-slab venting system.
- Excavation areas will be fenced or barricaded and a dust monitoring program (details not included in the Plan) will be implemented during mitigation. Silt fencing will be provided to the north and east to control run-off during remediation and construction. A gravel mat to reduce dirt tracking to public roads will be used during mitigation.

Limited remediation of the “most significant contamination...outside of the fenced area” will be completed in Parcel B, and the remaining impacts will be managed with engineering controls. Remediation costs in the Plan associated with Parcel B total approximately \$3,246,000. No schedule for eligible activities on Parcel B is provided in the Plan, but the Plan indicates that remedial work will not commence on Parcel B until remedial work has been completed on Parcel A and will be funded by tax increment revenues from Parcel A. As such, based on the tax capture tables in the Plan, remedial work on Parcel B will require an estimated 7 years following the redevelopment of Parcel A to complete.

Remediation and engineered controls on Parcel B will be completed to non-residential criteria as defined by Part 201, and “in consultation with MDEQ”. A Documentation of Due Care Compliance report will be completed following site activities, and will be submitted to the MDEQ for review and approval. Remediation and engineered controls will include the following:

- Removal and off-site disposal of approximately 23,185 yd<sup>3</sup> of soil, removal and off-site disposal of associated perched groundwater, and backfill in one source area (Area E in Figure 3).
- Engineered control of the landfill area using the following (construction details not provided):
  - An approximately 1,400 ft. hydraulic barrier around the perimeter of the landfill. According to Figure 3, this will consist of two components: 1) a Clay Backfill Wall to be installed on the western side of the landfill area after excavation in Area E, and 2) a minimum of 2-foot thick clay Slurry Wall to be installed on the eastern and northern sides. Figure 3 suggests that the two components are not continuous around the perimeter of the landfill area, but details of the construction, including depth of the barrier wall and the connection with underlying clays, were not provided.
  - A 2-foot thick clay cap with flexible membrane over the landfill area. Figure 3 illustrates the cap to cover the landfilled area that is not included in Area E soils remediation.

- The Plan indicates that an O&M Plan will be prepared and implemented for the landfill area for 30 years.
- Excavation areas will be fenced or barricaded and a dust monitoring program (details not included in the Plan) will be implemented during mitigation. Silt fencing will be provided to the north and east to control run-off during remediation and construction. A gravel mat to reduce dirt tracking to public roads will be used during mitigation.

The following will be implemented, but only if “deemed necessary by the MDEQ”: These passive gas collection systems are contingent on consultation with, and recommendations from, the MDEQ, and provided specifically to protect the residential portions of the Project. There currently is insufficient data to determine if these systems are necessary, but additional investigation is proposed and assumed to include methane monitoring. The system along Hamlin Road has been presented in meetings as a preventive measure, but if necessary, would be required to obtain the NFA. Installation of the system on Parcel B will depend on the actual site conditions, but is not for remediation on Parcel B, and therefore not part of the due care program for Parcel B. Following DDCC review by the MDEQ, it is possible that a third gas collection system, not currently included in the Plan, will be required around the capped landfill area to meet non-residential criteria.

- A lateral passive venting system as illustrated in Figure 3 is located between Parcel A and the landfill area of Parcel B. This system is a presumptive remedy to intercept any methane gas that may migrate from Parcel B to Parcel A.
- A passive venting system will be installed along Hamlin Road. Figure 3 illustrates this system from approximately sample location SB-3 to just west of the Project entrance. This system is a presumptive remedy to intercept methane gas that may be migrating from the landfill located south of the Property to Parcel A. The Plan indicates that an O&M Plan will be prepared for this system, but O&M implementation costs are not listed as an eligible expense or included as a cost in Table 1.

### **381 Work Plan and Amended Consent Judgment**

The Property is the subject of an approved Brownfield Plan (dated 2003), 381 Work Plan (dated 2008), Reimbursement Agreement (dated May 28, 2008) and Consent Judgment (dated April 19, 2006 as Case no. 04-060730-CZ). Environmental impacts to the property and adjacent properties, the proposed remedies, and the potential for public access were the primary reasons for the requirements contained in these documents, incorporating a preference for a “substantial environmental benefit” because incentives were provided.

The current Plan will have to replace the 2003 Brownfield Plan. The current Plan contains the same information provided in the September 12<sup>th</sup> draft 381 Work Plan, so all comments to the Plan apply to the draft 381 Work Plan. The draft 381 Work Plan will have to replace the 2008 version.

All of the environmental mitigation language from the original Consent Judgment has been removed in the ACJ. All activities are now to be completed according to the City approved Plan and the MDEQ approved 381 Work Plan. As such, any requirements for mitigation, remediation or long term O&M must be included in the Plan or 381 Work Plan to be required under the ACJ. The 381 Work Plan must be submitted to the MDEQ by the City, not the applicant, so there will be an opportunity to review and approve the 381 Work Plan.

It should be noted that MDEQ approval of the 381 Work Plan is not intended to be an approval of the adequacy of the remedy or the due care obligations, but rather the applicability of the cost for



10448 Citation Drive, #100  
 P.O. Box 2160  
 Brighton, Michigan 48116  
 Phone: 810.225.2800 Fax: 810.225.3800

reimbursement. Adequacy for the remedy for Parcel A will be based on the MDEQ issuing an NFA. Adequacy of the remedy for Parcel B will be based on review and comment on the Documentation of Due Care Compliance (DDCC).

**Recommendations:**

Based on this review, the Plan is administratively complete and ready for review by the RHBRA. However, some open issues still remain. The following are recommendations to the RHBRA to address these items.

1. Although the Plan indicates that any eligible expenses not approved by the MDEQ for reimbursement using school tax capture will be limited to their proportional share of local taxes (Section 2.3), the footnote to the table titled Estimated Cost of Reimbursable Eligible Activities on page 24 still indicates that the applicant may seek additional local tax capture for eligible activities not approved for school tax capture. This footnote should be removed.
2. The Plan indicates that remediation and engineered controls for Parcel B will comply with non-residential criteria under Part 201. Because the adjacent property will be used for residential, this may not permit use of Parcel B as a park (per 324.20101(ii)(ii) of Part 201), although it will permit use as a natural area or for parking. Final determination of the adequacy of the remediation and engineered controls based on the intended future use of Parcel B will be obtained in conjunction with the MDEQ as part of the DDCC process described in the Plan. The City should assume that Parcel B will be limited to a natural area and it is possible that it will not be open to the public as part of the adjacent park.
3. A key issue for the City will be the long-term due care obligations for the O&M of Parcel B after redevelopment of Parcel A. O&M responsibilities are anticipated to start immediately following installation of engineered controls, which is anticipated to take up to 7 years. Parcel B will be separately owned and operated, and the controls proposed for Parcel B will require inspection, operation, and maintenance in order to meet due care requirements. The Plan includes \$900,000 for 30 years of that operation and maintenance. If this expense is administered on a reimbursement basis, then reimbursement would extend beyond the statutory 30 year limit for a Brownfield Plan. As such a mechanism for capture and reimbursement of this expense over the next 37 years should be developed and a mechanism for operation and maintenance beyond that period should be considered.
4. The RHBRA should provide a final decision on this Project for the following policy items;
  - Has the applicant provided sufficient documentation to determine that interest is an eligible expense as requested in the policy guidance?

Please contact me if you have any questions, or need additional information.



10448 Citation Drive, #100  
P.O. Box 2160  
Brighton, Michigan 48116  
Phone: 810.225.2800 Fax: 810.225.3800