

## NEW BUSINESS

### 2024-0611

Request for review and approval of the fifth reimbursement request associated with the cost for eligible activities completed for the Legacy of Rochester Hills (City File No. 17-043) brownfield cleanup, located at the northeast corner of Adams and Hamlin, zoned by Consent Judgment, Parcel Nos. 15-29-101-022 and -023, LRH Development, LLC, Applicant

*(Memo by Roediger dated 1/16/25, Memo by Wackerman dated 1/9/25, Reimbursement Request, Legacy Review of IRR 4/12/2018, Rochester IRR dated 4/6/2018, Signed Reimbursement Agreement and Brownfield Plan had been placed on file and by reference became a part of the record hereof.)*

*Present for the applicant was Arthur Siegal, Taft Law Firm, and Jeremy McCallion, AKT Peerless Environmental Services, and for the City was Tom Wackerman, ASTI Environmental, the City's environmental consultant.*

*Ms. Roediger noted that Mr. Wackerman has been the City's consultant for many years, and explained that this is the fifth request for reimbursement for their Brownfield Plan, which was established some time ago. She pointed out that Mr. Wackerman has gone through their request and outlined it in his memo, and can provide a high level overview and answer any of the remaining questions from the applicant.*

*Mr. Wackerman noted that he would provide an overview of the memorandum and all 738 pages of documents attached to the agenda. He explained that the bottom line is the request was for \$474,354.27. He noted that the project went through a number of iterations and modifications, and the important numbers are in reference to the modified Brownfield Plan and the approved amendment. He stated that both approved \$9,475,587 in eligible costs but differed a bit in interest, which he expects to be a subsequent request by the applicant. He noted that they also anticipate additional requests from the applicant, and he mentioned that there are some still outstanding bills which were denied in the second submittal that are going to be resubmitted after discussion. He added that they fully anticipate that they will see each other each year as the applicant submits costs for operation and maintenance on Parcel B. He pointed out that Parcel B is the out parcel that was closed with a cap and a slurry wall and requires maintenance, and he expects that they will come in every year for the next 25 years for reimbursement.*

*He noted that Table 4 provided puts the total amount requested to date for various tasks over budget, and pointed out that they are not over budget for the entire requested amount including contingency. He explained that one of the things requested for approval is a reallocation of the task budgets so that everything comes in line and nothing is over budget. He stated that the Authority has the ability to do that to the extent it wants to as long as it does not exceed the total \$9.4 million originally approved, which will not be exceeded with this request.*

*He explained the reallocations, as noted in Table 5, and recommended taking \$839,000 from the contingency and applying it to other tasks, with the objective*

*of reserving \$726,000 for the next 25 years for operation and maintenance of Parcel B. He added that this takes into account the reallocation, but does not yet take into account any anticipated future requests. He noted that if those come before the Board, he will do a separate memo and request a redistribution of the remaining contingency funds to cover those requests.*

*He reviewed Table 6 in his memo, and noted that the \$449,839 approved reimbursement total will be split between school and tax capture for the majority of it. Local only capture is requested for items that are limited by State policy for Brownfield preparation and Brownfield accounting.*

*He mentioned a number of Rochester Hills' expenses that appeared to be from an escrow account associated with the building and planning process, and it turns out after a review of those bills that they were eligible expenses that were paid through the escrow account. He noted that some of these expenses will be repaid from the escrow account rather than the Brownfield TIF, and he commented that he will be working with the Accounting department, and wanted to make sure that this is included in the recommendations this evening so that those costs can be cleared up.*

*He noted that the final item was a \$70,000 bill that was denied in the fourth request for reimbursement because it was unclear how it fit in with the other expenses and was a settlement between the applicant and a subcontractor. It originally could not be determined whether this was a duplicate bill, and after meetings with the applicant, it was determined to be eligible and legitimate, so he is recommending approval of that bill as well.*

*He reviewed the amounts in Table 7 which showed the breakdown for the total request for reimbursement versus the recommended amount for approval. He explained that Ms. Roediger put together a motion to implement the recommendations. He noted that the first recommendation would be to approve that the contingency funds in the amount of \$839,903 be moved to adjust task budgets, provided that the total cost did not exceed the total reimbursement allowed by the Brownfield Plan. The second item is to determine the adequacy of waivers and methods of payment made to GCI Construction rather than LRH Development and Goldberg Companies as identified in the Plan. He mentioned that he has presented this particular item in every one of the previous requests and he would just like the Authority to ratify it, and explained that this is just the way the bills went between the entities. He stated that the third item is to approve reimbursement from local taxes of only \$24,884.90 for Brownfield Plan implementation. He explained that this is that category that is limited by State policy and therefore any amount over State policy would be local only. Of that \$24,884, it would only pay the local proportional share, so the Authority would be paying \$11,183.20. He noted that he put a footnote in the memo and has talked with the applicant's consultant that future costs in these categories would be local only. Fourth, the Authority is asked to approve reimbursement on local and school tax capture. Of the \$424,954.19, the Authority is asked to approve reimbursement to the applicant from the escrow fund of \$23,669. Finally, he explained that there is one invoice for consulting on the parking lot that is not really an eligible expense and is not in the plan. He noted that he is*

*recommending that the Authority approve and pay it out of local and local-only capture rather than worry about the State approval of it as it is not an eligible expense.*

*He invited the applicant to make their presentation.*

*Mr. Siegel noted that he was an attorney from the Taft Law Firm in Southfield on behalf of the development team, and Mr. McCallion from AKT Environmental would be more qualified to answer any questions on the specifics. He stressed that this request is simply to authorize repayment of these funds out of taxes, as the taxes are paid by the development. If the development is paying the taxes, then a portion of that money is going to be used to remit back the approved funds. This is not money that is coming out or is a check that will be issued by the City from any other source than the development itself.*

*He noted that they do not have any specific issues or concerns with Mr. Wackerman's presentation, and agree with his numbers in Table 7.*

*Mr. McCallion stated that he appreciates the efforts of Mr. Wackerman and Ms. Roediger to work through this. He noted that as Mr. Wackerman mentioned they did have to go back several years with some of the invoices back to 2019, and going forward they will have ongoing monthly methane screening that will be continuous for a long time. He added that they do have some other invoices they will probably be submitting pertaining to previous submittals in Reimbursement 2. He noted that they will continue to have cost tracking going forward, and their intent is to submit roughly once a year in this same kind of timeframe. He mentioned that the services for this submittal were through September 30, 2024, so ideally they will be on a yearly schedule and going forward they should be a bit more straightforward than this submission.*

*Mr. Siegel added that the future submissions will be significantly smaller.*

*Mr. McCallion reiterated that they are coming in under budget on the annual operations and maintenance work that they are doing and might not use the full operations and maintenance piece.*

*Mr. Wackerman commented that he does not recall seeing the methane monitoring reports and asked if they have been sending those to the City.*

*Mr. McCallion stated that he was not 100 percent certain and could check.*

*Mr. Wackerman asked if they could send all of the back reports and make a note to forward them. He commented that the City would be very interested in having those as a record.*

*Council President Deel stated that it was indicated that there would be future expenses brought annually and asked if they would be taken out of the contingency funds at this point.*

*Mr. Wackerman responded that the assumption is that in today's approval*

*\$800-plus thousand would be taken out of the contingency for expenses incurred. He commented that he thinks there is only one set of invoices, the \$24,000 that was discussed by email, that is not a Parcel B operations and maintenance expense that will be coming.*

*Mr. McCallion responded that the bulk of the submittals would be in the operations and maintenance line item but there might be some previous Brownfield Plan prep invoices that could be coming. He explained that he spoke with the environmental team and there might be a bit more reporting that is outside of the operations and maintenance.*

*Mr. Wackerman stated that the task budget is covered to \$700,000 for operations and maintenance, so it would be only these other incidental expenses that are going to be coming up cost tracking every year in order to submit the same kind of report. He added that there will be some legal fees that will be resubmitted. He noted that there will be some money that will need to be reallocated from contingency; however, he would guess that it would probably be less than \$75,000.*

*Council President Deel commended Mr. Ackerman and the applicants for getting together and working on the numbers, stating that he is aware that there were many back-and-forth communications and meetings. He commented that it really helps when the parties get together and work things out in advance to be able to come to the Authority with a very clean recommendation. He moved the motion in the packet for approval.*

*Vice Chairperson Nachtman seconded the motion. After calling for a voice vote, he noted that the motion passed unanimously.*

*Following the vote, he questioned whether there has been more activity in regards to this type of development. He noted that in his experience in Detroit he has seen more brownfield development, but it has been mostly above ground.*

*Mr. Siegel responded that the program has two arms - one that he would call the traditional brownfield which is what is going on here where a developer comes out and says there is contamination that needs to be cleaned up and the contamination is an impediment to the development economically. He noted that this comes out of property taxes and yes, those are continuing all over the state and not just in Detroit. He explained that some industrial or commercial developments do not need as much cleanup, and some may need vapor protection from contamination below ground that cannot be cleaned up easily.*

*He explained that the second is the transformational brownfield program, and he noted that Dan Gilbert's building on the old Hudson's site, the Little Caesars District Detroit program, and the MSU-Pistons Henry Ford project are all using that program. He commented that the program is fabulous and is doing really well. He stated that it reimburses more costs and captures more sources of taxes in order to fund that additional work. He mentioned that there is one project in the queue with the State to get approved under that program, and*

*there have been a number that have been approved. He noted that there are a number more in the queue that cannot be approved because the legislature has put a cap on how much tax revenue could be captured to fund these programs.*

*He stated that there are a number of projects across the state, many outside of Detroit, in Dearborn and on the east side. He pointed out that the program could fund transformational brownfields in smaller communities as well. He noted that there is a certain amount of dollar expenditures that must be met to qualify and there have to be certain effects in order to be transformational. He mentioned that the last time the State amended the program they actually tried to provide for a greater distribution across the state based on the size of the communities benefiting; however, at the moment the one project in the queue will exhaust all of the State-approved money. He noted that there was legislation introduced at the end of last year to extend the cap; and it unless is reintroduced and ultimately passes, the program is otherwise pretty much done. He commented that it is possible that some of the money may be paid back if the cap is revised or some of the projects do not use all of the money allocated to them.*

*Mr. Wackerman commented that the City is in the middle of a \$75 million Brownfield grant that is being deployed in the City of Rochester Hills. He stated that it is moving forward here in the City and he would be happy to provide the Authority with more information.*

*Vice Chairperson Nachtman noted that there is still property across from Legacy.*

*Mr. Wackerman responded that this is one of the properties in the \$75 million grant program.*

**A motion was made by Deel, seconded by Nachtman, that this matter be Approved. The motion carried by the following vote:**

**Aye** 5 - Nachtman, Stanley, Turnbull, Sera and Deel

**Excused** 2 - Justin and Braun III

**Resolved**, in the matter of City File No. 17-043, the Brownfield Redevelopment Authority approves the reimbursement request #5 dated October 14, 2024 from AKT Peerless on behalf of LRH Development, LLC, for \$449,839.09 as further defined in ASTI's Memo dated January 10, 2025, as payment for the cost of eligible activities for the Legacy of Rochester Hills project, as this portion of the request is in compliance with the approved Brownfield Plan, the Reimbursement Agreement, 1996 PA 381 (Act 381) at the time of the Brownfield Plan approval, the City's cost reimbursement procedures, and generally accepted practices.

## **ANY OTHER BUSINESS**

**2025-0010** Approval of 2025 Meeting schedule

*Ms. Roediger noted that there was a memo in the packet to set up four regularly-scheduled meetings for 2025, and she requested a motion to officially set those dates.*