

**CITY COUNCIL
STUDY SESSION AGENDA**

July 29, 2002 - 7:30 PM

City Hall

City Council Conference Room
500 West Big Beaver, Troy, Michigan 48084
(248) 524-3300

CALL TO ORDER

ROLL CALL

Mayor Matt Pryor
Robin E. Beltramini
Cristina Broomfield
David Eisenbacher
Martin F. Howrylak
David A. Lambert
Anthony N. Pallotta

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- | | | |
|----------|-------------------|-----------------------|
| 1 | Skate Park | 7:30 – 8:15 PM |
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| 2 | Local Match for a Michigan Economic Growth Alliance Retention Incentive Package | 8:15 – 8:45 PM |
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BREAK: 8:45 – 9:00 PM

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| 3 | Senate Bill #3 | 9:00 – 9:45 PM |
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| 4 | Engineer Bids | 9:45 – 10:15 PM |
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PUBLIC COMMENT

ADJOURN

Respectfully submitted,

Gary A. Shripka, Assistant City Manager/Services

Any person not a member of the Council may address the Council with recognition of the Chair, after clearly stating the nature of his/her inquiry. Any such matter may be deferred to another time or referred for study and recommendation upon the request of any one Council Member except that by a majority vote of the Council Members, said matter may be acted upon immediately. No person not a member of the Council shall be allowed to speak more than twice or longer than five (5) minutes on any question, unless so permitted by the Chair. The Council may waive the requirements of this section by a majority of the Council Members. (Rules of Procedure for the City Council, Article 15, as amended May 7, 2001.)

June 27, 2002

TO: Honorable Mayor and City Council

FROM: John Szerlag, TDDA Executive Director and City Manager
Doug Smith, Real Estate and Development Director

SUBJECT: Local Match for a Michigan Economic Growth Alliance Retention
Incentive Package

Development Plan #4 was approved unanimously by the Troy Downtown Development Authority (TDDA) at a regular scheduled meeting on June 19, 2002.

Management was approached by the Michigan Economic Growth Alliance (MEGA) and a newly formed company, Axel Tech, to provide a local match for a state package of incentives to retain the company in Michigan, and in this case in Troy. State law requires that in order for MEGA to provide an incentive package to a company, a local contribution must be made. The size and nature of that local match is negotiated between MEGA and the local community. This high tech MEGA incentive package will be considered by MEGA on July 9, 2002.

The company is Axel Tech Inc., a spin-off from Arvin Meritor (formerly Rockwell Industries) of their heavy axel division, which has two manufacturing plants in Wisconsin and France. Mary Petrovich, was hired by Arvin Meritor to come in and spin-off will head the new company. There are currently 34 employees that make up this division in Arvin Meritor, and by the end of year one an additional 15 employees should be hired bringing the total to 49 employees. These employees will be made up of 35 in the engineering CAD-CAM area, and 14 administrative employees in the headquarters. By year three, the expectation is there should be approximately 60 employees. These are generally high wage employees with annual compensation of \$104,000.

The projected Michigan facility square footage would be 20,000 square feet in Troy Place, located at Coolidge and Big Beaver. The target date for completing and moving into this facility would be December 2002. The projected capital expenditures would be \$2.37 million, initially, plus a yearly investment of \$100,000.

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|--|--------------------|
| • Furniture & Fixtures (50 employees at \$3,000) | \$ 150,000 |
| • Equipment (i.e. plotters, printers, PC's) | \$ 300,000 |
| • Engineering Hardware, Software Implementation | \$1,570,000 |
| • Leasehold Improvements | <u>\$ 350,000</u> |
| • Total Michigan Investment | \$2,370,000 |
| • Ongoing Average Annual Investment | \$ 100,000 |

The MEGA package is worth approximately \$1 million and will be made up of rebating the personal income tax paid on wages and possible assistance for job training. The local contribution is provided only if the company receives MEGA approval.

After discussion between City staff and MEGA, it was determined that a sufficient local contribution would be for the City of Troy to contribute \$50,000 to the leasehold improvements for Troy Place. These leasehold improvements include: New entry doors at the east and west end of the building, new landscaping and lighting at those entrances, new floor covering on the floor in which the new company will occupy and a renovation in barrier free design restrooms, as well as a renovation, of the elevator cab which is handicap accessible. The \$50,000 would be paid only upon documented receipts for expenses for these items as part of the total leasehold improvements being done for the new company. By keeping the contribution to leasehold improvements, the DDA is contributing to improving a property within the DDA, which clearly falls under the authority of the Downtown Development Authority.

Again, this local contribution is required in order for MEGA to award the state package of incentives. MEGA conducts an extensive examination that there was a real potential for this company moving out of state and that is why the intervention by the state to try to keep them in Michigan with these incentives. In order for the DDA to provide this expenditure, a development plan including this project must be adopted. Enclosed is Development Plan #4, which provides for the leasehold improvements to Troy Place.

Funding would be available from operating expenses in the 2002 – 2003 budget.

DS/pg

PROPOSED DRAFT FOR CONSIDERATION BY CITY COUNCIL ON 07/18/02

Resolution of Intent Calling Public Hearing Regarding Development Plan #4 for the
Troy Downtown Development Authority

WHEREAS, the City of Troy (the "City") as authorized by the provisions of Act 197, Public Acts of Michigan, 1975, as amended, has created a downtown development authority; and

WHEREAS, it is necessary, for the best interests of the public, to halt property value deterioration and increase property tax valuation where possible in the business district of the City of Troy, to eliminate the causes of such deterioration, and to promote economic growth; and

WHEREAS, Ordinance 80 designating a downtown district, incorporating a downtown development authority, adopting a development plan and a tax increment financing plan pursuant to Act 197 has been adopted by the Troy City Council; and

WHEREAS, the Troy Downtown Development authority wishes to modify the development plan to include provisions of financial support to attract the headquarters of a major manufacturing company; and

WHEREAS, the Troy Downtown Development Authority has prepared Development Plan #3 and Tax Increment Financing plan #3 incorporating the previous two development plans and tax increment financing plans; and

WHEREAS, the Troy Downtown Development Authority has requested the Troy City Council to consider Development Plan #4; and

WHEREAS, it is necessary to conduct a public hearing in connection with the consideration of such proposed Development Plan #4 as required by Act 197 as amended;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council determines that it is necessary for the best interests of the public to maintain a downtown development authority pursuant to Act 197 in order to halt property value deterioration and increase property tax valuation where possible in the business district of the City, to eliminate the causes of such deterioration, and to promote economic growth, and the City Council hereby declares its intention to consider Development Plan #4 of the Troy Downtown Development authority pursuant to Act 197 as amended.
2. Development Plan #4 are subject to the jurisdiction of the Troy Downtown Development Authority as provided in Act 197 as amended and set forth in Exhibit A attached hereto and made a part hereof.
3. There shall be a public hearing on Monday, the 5th day of August, 2002, at 7:30 p.m. in the Troy City Hall in the City Council Chambers to consider adoption by the Troy City Council of Development Plan #4 for the downtown development district.
4. The City Clerk shall cause notice of said public hearing to be published in a newspaper of general circulation in the city, twice before the public hearing. The notice shall be published not less than 20 days before the date set for the public hearing. The notice shall be published as a display advertisement prominent in size. The clerk also shall cause the notice to be mailed by first class mail not less than 20 days prior to the hearing to all property taxpayers of record in the proposed downtown district as shown by the most recent tax roll of the City. The Clerk shall also post, or cause the posting of, the notice in a conspicuous and public place in the proposed downtown district not less than 20 days before the hearing.

**PROCEEDINGS CHECKLIST FOR MAJOR* AMENDMENTS TO DDA
ADOPTED DEVELOPMENT AND TAX INCREMENT FINANCING PLANS**

ACTION	DATE TAKEN	CERTIFIED COPY?
DDA Actions On Development Plan Amendments: DDA requests City Council to hold a public hearing on proposed Development Plan amendment	June 19	
DDA approval of plan amendments: DDA adopts resolution approving major amendments to development plan and/or TIFA plan and recommends to City Council adoption of plan amendments	June 19	
City Council Actions On Plan Amendments: Adopt Resolution of Intent calling for public hearing	July 8	
Notice of Hearing – 1st notice: Publish 1st notice at least 20 days prior to hearing	July 9	
Notice of Hearing – 2nd notice: Publish 2nd notice at least 20 days prior to hearing	July 15	
Notice of Hearing – Posting in DDA District Post notice of hearing in at least 20 conspicuous and public places within the DDA district at least 20 days before hearing	July 15	
Notice of Hearing – Property Owner Notification: Mail notice of hearing to property owners of record within DDA district at least 20 days before hearing	July 15	
Hold public hearing	Aug. 5	
Amend current DDA Ordinance or adopt Ordinance** amending DDA Development Plan and/or TIFA Plan	Aug. 5	
Ordinance or ordinance amendment published	Aug. 12	
Ordinance or ordinance amendment filed with Secretary of State		

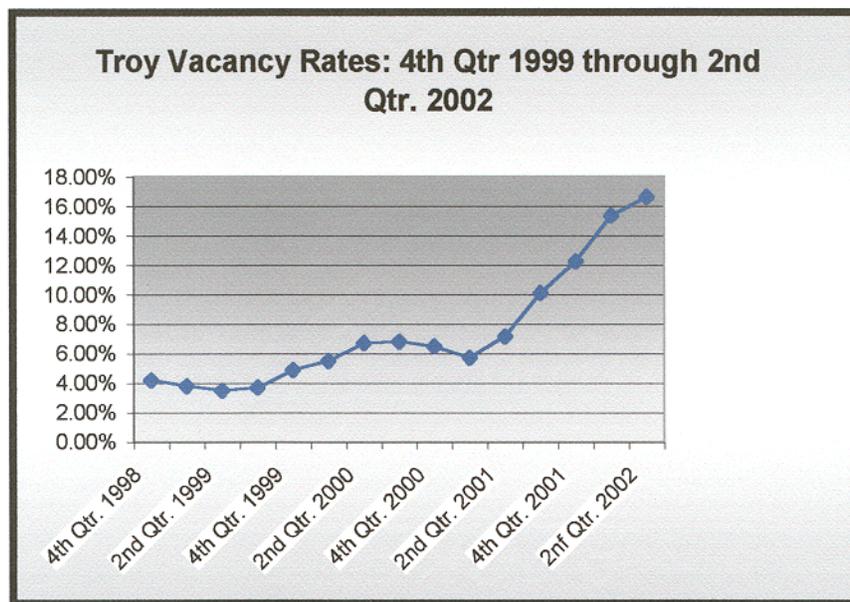
* Major amendment is defined as expansion of the development plan area and/or a change in the financing program such as issuance of new DDA bonds.

** The use of an ordinance or ordinance amendment to approve the changes in the plans is a local determination

Troy Market Update July 9, 2002

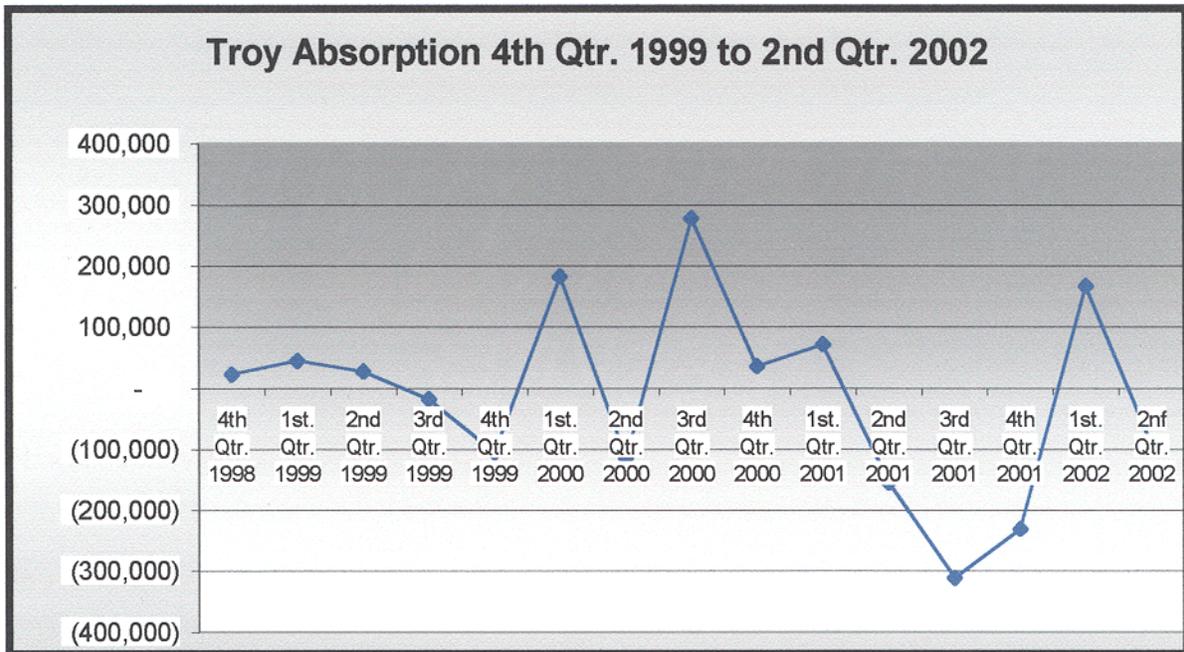
The overall climate for office space in Troy, Michigan has followed suite along with the nation's economic environment. Since fourth quarter 1999 vacancy rates have been on the rise, first due in part to new construction. Since second quarter 2001 the increase in vacancy rates have been due to corporate consolidations, downsizing and relocations.

A few of the notable consolidations and relocations were EDS' vacating of approximately 150,000 sq.ft. at Troy Office Center and 68,000 sq.ft. at 901 Tower Drive for new space in Auburn Hills and BancOne's consolidation of operations thus vacating its Troy Financial Center at 900 Tower Drive.



Additionally, late deliveries in the construction cycle have had an impact on vacancy rates. In Second Quarter 2002 Kojaian Companies delivered to market the 275,000 sq.ft. Maple Corporate Center with no pre-leasing and to date no solid prospects to lease the vacant space.

With respect to absorption of office space the chart below lays out an indication of the level of activity that has occurred in the marketplace over the past several years. Often one large occurrence in the marketplace be it either a relocation, expansion or consolidation can have a dramatic impact on absorption rates.



**CITY OF TROY
PUBLIC HEARING**

PUBLIC NOTICE

A Public Hearing will be held by the Troy City Council, City of Troy at City Hall, 500 W. Big Beaver, Troy, MI on Monday, August 5, 2002, at 7:30 p.m., or as soon thereafter as the agenda will permit, to consider Amending the Troy Downtown Development Authority Plan to include Development Plan #4, to provide for leasehold improvements to 3001 West Big Beaver Road for purposes of local company retention.

Publish: July 8, 2002
July 15, 2002

You may express your comments regarding this matter by writing this office or by attending the Public Hearing.

Tonni Bartholomew
City Clerk

***NOTICE:** People with disabilities needing accommodations for effective participation in this meeting should contact the Planning Department (248) 524-3364 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations*

**Development Plan #4
Tax Increment Financing Plan #4**

**City of Troy
Downtown Development Authority**

BACKGROUND AND PURPOSE

1. Purpose of the Downtown Development Authority Act

Act 197 of Public Acts of 1975, as amended, of the State of Michigan, commonly referred to as the Downtown Development Authority Act ("Act 197" or the "Act") authorizes the establishment of a downtown development authority and was created in part to correct and prevent deterioration of business districts; to promote economic growth and revitalization; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the levy and collection of taxes; the issuance of bonds and the use of tax increment financing to finance downtown development contained in locally adopted development plans.

The Act seeks to attack problems of urban decline, strengthen existing areas and encourage new private developments in Michigan's downtown communities. It seeks to accomplish this goal by providing these communities with the necessary legal, monetary and organizational tools to revitalize downtown districts either through publicly initiated projects or in concert with private developments. The method chosen by downtown development authorities to make use of these tools depends on the problems and opportunities facing the district and the development priorities established by the community for the revitalization of the business area.

2. Creation of the Troy Downtown Development Authority

In December of 1993, the Troy City Council adopted Ordinance 80, which created the Troy Downtown Development Authority ("TDDA"). TDDA was given all of the powers and duties prescribed for a Downtown Development Authority pursuant to the Act.

3. Basis for the Tax Increment Plan and Development Plan

Act 197, provides the legal mechanism for local officials to address the need for economic development in the business district. In Troy, the Downtown Development Authority District can be generally described as the commercial area along Big Beaver Road from Rochester Road on the east to Newport on the west, (the "Authority" or the "District"). At the time the TDDA was created, the Development Area and the Tax Increment Financing Area were established as coterminous with the boundaries of the Authority. A development plan and a tax increment financing plan were adopted for the purpose of implementing the specific development programs and/or projects in the Development Area.

For purposes of financing activities of a downtown development authority within a Downtown district, Act 197 provides for establishment of a Tax Increment Plan. By definition, a Tax Increment Financing Plan seeks to capitalize on and make use of the increased tax base created by economic development within the boundaries of a Downtown district

4. **The Current TDDA Development Plan and the TDDA Tax Increment Financing Plan**

The Tax Increment Financing Plan (the "TIF") of the TDDA was approved and adopted by the Troy City Council on November 3, 1993, on which date the City also approved and adopted Development Plan #1, which included reconstruction and improvements to Big Beaver Road and a public parking deck. The TIF provided for capture and use by the TDDA of all tax increment revenues generated from the captured assessed value of all taxable real and personal property within the District for purposes of the Development Plan.

An amendment to Development Plan #1 was approved and adopted by the City on September 28, 1998 (referred to for purposes hereof as "Development Plan #2"). Development Plan #2 incorporated the area north of Cunningham Road for purposes of the construction of a data center for K-Mart and the proposed civic center site at Big Beaver and I-75.

Development Plan #2 expressly incorporated and restated the TIF Plan previously adopted by the TDDA to finance development programs and projects within the District.

This second amendment to the TDDA Development Plan (referred to for purposes hereof as "Development Plan #3"), expressly incorporated and restated the development programs and projects described in Development Plan #1 and Development Plan #2 and described two additional major road projects including the widening of Big Beaver Road between I-75 and Rochester Road and from I-75 to the northern DDA boundary deemed necessary by the TDDA for the future economic vitality of the District, and with respect thereto, set forth the plans for development and financing of said projects as required under Act 197.

Development Plan #3 was structured to provide the TDDA with the continued ability to utilize Tax Increment Financing to address the needs of the Troy Downtown Development Authority Area.

5. **Relationship between Development Plan #4 and Development Plan #3**

The intent of Development Plan #4 is to amend Development Plan #3 by incorporating the project to be known as "Troy Place Improvement Project" (Map #1). This project serves as the local match required for a local company to receive a package of financial incentives for the State of Michigan to retain its headquarters with the City of Troy and the State of Michigan.

A package of incentives through the Michigan Economic Growth Alliance (MEGA) has been provided to Axel-Tech for the location of its headquarters in the TDDA District. Under the MEGA program, a local commitment is required for the state to honor its commitment to Axel-Tech. Following negotiations between the City, Axel-Tech and the State of Michigan, it was agreed an amendment to the development plan of the DDA was required to provide the local commitment. This amendment is consistent with the objectives of the DDA by providing a public/private partnership to retain employment and expand the number of employment opportunities in the Troy Downtown Development District.

The following is a summary of the project:

Project: Projected costs for renovation of public areas

- Entry doors (barrier fence)
- Flooring coverings
- Landscaping
- Lighting
- Renovation of bathrooms (handicap accessible)
- Renovation of elevator cab (handicap accessible)

DEVELOPMENT PLAN NO. 4

1. DESIGNATION OF BOUNDARIES OF THE DEVELOPMENT AREA AND NEW PROJECTS

The Development Area Boundary is located within the jurisdictional limits of the City of Troy and coterminous with the TDDA. The City of Troy established the TDDA pursuant to Act 197 of Public Acts of 1975, as amended, through the adoption and publication of Ordinance 80. The boundary for the TDDA and Development Area is shown on Map #2. The projects that have been added to the Development Plan of the TDDA under this Development Plan #4 can be generally described as the area bounded by Big Beaver on the north, Coolidge Road on the east and Golfview on the south and west.

2. LOCATION AND EXTENT OF OTHER PUBLIC FACILITIES WITHIN THE DEVELOPMENT PLAN, LOCATION, CHARACTER AND EXTENT OF EXISTING PUBLIC AND PRIVATE LAND USES

Public Land Uses

Public land within Development Area #4 includes the right-of-ways under the jurisdiction of the City of Troy, Oakland County, and the State of Michigan.

Private Land Uses

- A. **Residential** – None
- B. **Commercial and Office** - No Commercial area is in Development Plan #4, however, an office complex of buildings commonly known as Troy Place make up the site, which includes 5 buildings, one enclosed parking deck and surface parking. While not included in the Development Plan, the land uses adjacent to the area include corporate headquarters, a regional shopping center, professional and medical offices, restaurants and residential neighborhoods.
- C. **Kresge Foundation** – is located between the project area and Big Beaver Road.

Recreational Uses

There is a private executive golf course west of the development area.

Semi-Public Uses

Streets, sidewalks, parking lots, public or common area of all buildings.

Educational Uses

None

Vacant Land

There are no tracts of undeveloped property with Development Plan #4.

LOCATION AND EXTENT OF PROPOSED PUBLIC AND PRIVATE LAND USES

When the Troy City Council created the Troy Downtown Development District and Authority, it was envisioned that the Authority would use an integration of public and private land uses as a means of enhancing, strengthening, and expanding the economic base of the DDA District. Development Plan #1 used strategically placed public improvements to accomplish this vision for the District. Development Plan #2 and #3 added private and public sector projects to the overall Development Plan to maintain the City's economic base and further expand the vision of the DDA district. To further accomplish this vision Development Plan #3 will:

- Provide financial support for strategically placed publicly accessed area improvements to private facilities as permitted in MCL 125.1657 (i); and
- use TDDA monies as a match for state incentives for companies in the TDDA area.

LEGAL DESCRIPTION OF THE DEVELOPMENT AREA AND PROJECT

Development Area (Coterminous with Authority Borders)

Township 2 North, Range 11 East, Section 30, being part of the Northeast ¼. Beginning at a point distance N 89° 16' 03" W, 60 feet and South 01° 12' 28" W, 102 feet from the Northeast Section corner; thence S 01° 12' 28" W, 990.07 feet; thence N 89° 16' 03" W, 765.87 feet; thence along a curve to the right, radius of 257.00 feet, chord bears N 74° 06' 48" W, 134.37 feet, distance of 135.95 feet; thence N 58° 57' 30" W, 109.82 feet; thence along a curve to the left, radius 343.00 feet, chord bears N 66° 39' 14" W, 91.87 feet, distance of 92.14 feet; thence along a curve concave southerly, radius 343.00 feet, chord bears N 81° 37' 33" W, 86.88 feet, distance of 87.11 feet; thence N 88° 54' 05" W, 395.71 feet; thence along a curve to the right, radius of 342.00 feet, cord bears N 44° 05' 04" W, 482.11 feet, distance of 535.03 feet; thence N 00° 43' 57" E, 508.09 feet; thence S 89° 16' 03" E, 636.05 feet; thence S 00° 49' 07" W, 276.78 feet; thence S 89° 16' 03" E, 349.00 feet; thence N 00° 49' 07" E, 276.78 feet; thence S 89° 16' 03" E, 919.97 feet to the point of beginning.

EXISTING IMPROVEMENTS IN THE DEVELOPMENT AREA TO BE DEMOLISHED, REPAIRED OR ALTERED AND TIME REQUIRED FOR COMPLETION

The proposed work program for the Development Plan #4 incorporates the improvements to 3001 West Big Beaver Road including installation of new doors, flooring, floor coverings, lighting, landscaping, renovation of bathrooms and elevator cabs. All expenditures are for areas of public use and handicap accessible. Descriptions of the work elements and the schedule for the projects are delineated in the next section.

6. **THE LOCATION, EXTENT, CHARACTER AND ESTIMATED COST OF IMPROVEMENTS INCLUDING REHABILITATION FOR THE DEVELOPMENT AREA AND AN ESTIMATE OF TIME REQUIRED FOR COMPLETION**

Development Plan #4 includes renovation of the building at 3001 West Big Beaver Road. The project is estimated to cost in excess of \$350,000 and will include the following:

- New glass entry door and sidelight systems at the east and west building with granite flooring.
- New landscaping and lighting at the east and west building entries.
- New carpeting and wallcovering on all seven floors.
- New counters, sinks, wallcovering and lighting in all of the restrooms on all seven floors.
- Renovation of elevator cab interiors, including floors, walls, ceiling and lighting.

In addition to this work, the 95-car parking garage has recently been renovated. A new roof will also be installed this summer. Generally, the renovations will commence the summer of 2002 and be completed by spring 2003.

7. **PARTS OF THE DEVELOPMENT AREA TO BE LEFT AS OPEN SPACE AND CONTEMPLATED USE**

None

8. **PORTIONS OF THE DEVELOPMENT WHICH THE AUTHORITY DESIRES TO SELL, DONATE, EXCHANGE, OR LEASE TO OR FROM THE MUNICIPALITY AND THE PROPOSED TERMS**

None

9. **DESIRED ZONING CHANGES AND CHANGES IN STREETS, STREET LEVELS, INTERSECTIONS AND UTILITIES**

No zoning changes or changes in streets, intersections, or utilities are anticipated by the Authority for the project in Development Plan #4.

10. **ESTIMATE OF THE COST OF THE DEVELOPMENT, PROPOSED METHOD OF FINANCING AND ABILITY OF THE AUTHORITY TO ARRANGE THE FINANCING**

Financing for the project would be provided through funds generated by the Tax Increment Financing Plan induced by annual increases in property valuations from normal growth and new construction within the DDA District.

11. **DESIGNATION OF PERSON OR PERSONS, NATURAL OR CORPORATE, TO WHOM ALL OR A PORTION OF THE DEVELOPMENT IS TO BE LEASED, SOLD, OR CONVEYED IN ANY MANNER AND FOR WHOSE BENEFIT THE PROJECT IS BEING UNDERTAKEN IF THAT INFORMATION IS AVAILABLE TO THE AUTHORITY**

The improvements undertaken pursuant to Development Plan #4 will be leasehold improvements to 3001 West Big Beaver Road for the immediate benefit of Axel Tech, but will, as leasehold improvements, be the property of the owners of Troy Place being Nemer Property Group, Inc.

12. PROCEDURES FOR BIDDING FOR THE LEASING, PURCHASING, OR CONVEYING OF ALL OR A PORTION OF THE DEVELOPMENT UPON ITS COMPLETION, IF THERE IS NO EXPRESSED OR IMPLIED AGREEMENT BETWEEN THE AUTHORITY AND PERSONS, NATURAL OR CORPORATE, THAT ALL OR A PORTION OF THE DEVELOPMENT WILL BE LEASED, SOLD, CONVEYED TO THOSE PERSONS

Not Applicable

13. ESTIMATE OF THE NUMBER OF PERSONS RESIDING IN THE DEVELOPMENT AREA AND THE NUMBER OF FAMILIES AND INDIVIDUALS TO BE DISPLACED

Based upon a review of the properties within the Downtown Development Authority District and Development Area, there are no residences within the District. This estimate is based upon City records and a site survey. Development Plan #4 does not require the acquisition and clearance of occupied property or the displacement of individuals and families within the Development Area.

14. PLAN FOR ESTABLISHING PRIORITY FOR THE RELOCATION OF PERSONS DISPLACED BY THE DEVELOPMENT IN ANY NEW HOUSING IN THE DEVELOPMENT AREA

Development Plan #4 does not require the acquisition and clearance of occupied residential property or the displacement of individuals and families. As a result, a plan for compliance of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended need not be addressed. Should it become necessary to address relocation at some future date, the TDDA shall abide by requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

15. PROVISION FOR THE COSTS OF RELOCATING PERSONS DISPLACED BY THE DEVELOPMENT, 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 FEDERAL UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Development Plan #4 does not require the acquisition and clearance of occupied residential property or the displacement of individuals and families. As a result, a plan for compliance of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended need not be addressed. Should it become necessary to address relocation at some future date, the TDDA shall abide by requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and Act 227 of Public Acts of 1972, as amended.

16. PLAN FOR COMPLIANCE WITH THE FEDERAL UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 AND ACT 227 OF THE PUBLIC ACTS OF 1972 AS AMENDED

Act 227 of Public Acts of 1972, as amended, is an Act to provide financial assistance, advisory services and reimbursement of certain expenses to persons displaced from real property or deprived of certain rights in real property. This Act requires procedures and policies comparable to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Since Development Plan #4 does not require the acquisition of property and displacement of persons, a plan for compliance with Act 227 is not addressed. Should the TDDA find it necessary to acquire occupied residential properties, a plan for compliance with Act 227 will be prepared.

TAX INCREMENT FINANCING PLAN NO. 4

1. DEFINITIONS USED IN THIS PLAN

A. Current Assessed Value -- (CAV) means the amount in any one (1) year by which the Current Assessed Value, as equalized, of the eligible property identified in the Tax Increment Financing Plan, including the Current Assessed Value of property for which specific local taxes are paid in lieu of property taxes as determined in Subdivision (c) exceeds the Initial Assessed Value. The State Tax Commission shall prescribe the method for calculating Captured Assessed Value.

B. Initial Assessed Value – (IAV) means the assessed value, as equalized, of the eligible property identified in the Tax Increment Financing Plan at the time the Resolution establishing the Tax Increment Financing Plan is approved as shown by the most recent assessment roll for which equalization has been completed at the time the Resolution is adopted. Property exempt from taxation at the time of the determination of the Initial Assessed Value shall be included as zero. Property for which a specific local tax is paid in lieu of property tax shall not be considered exempt from taxation. The Initial Assessed Value of property for which a specific local tax was paid in lieu of property tax shall be determined as provided in Subdivision (c).

“Assessed value,” means one of the following:

1. For valuations made before January 1, 1996, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.
2. For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

C. Specific Local Taxes – means a tax levied under Act 198 of the Public Acts of 1974, being sections 207.551 to 207.571 of the Michigan Compiled Laws, the Commercial Redevelopment Act, Act No. 255 of the Public Acts of 1978, being Section 207.651 to 207.668 of the Michigan Compiled Laws, the Enterprise Zone Act, Act No. 2424 of the Public Acts of 1985, being Sections 125.2101 to 125.2122 of the Michigan Compiled Laws, and the Technology Park Development Act, Act No. 285 of the Public Acts of 1984, being Sections 207.701 to 207.718 of the Michigan Compiled Laws. The Initial Assessed Value or Current Assessed Value of property subject to specific local tax shall be the quotient of the specific local tax paid dividend by the ad valorem millage rate.

2. PURPOSE OF THE TAX INCREMENT FINANCING PLAN

If the Board determines that it is necessary for the achievement of the purposes of the Downtown Development Act, it shall prepare and submit a Tax Increment Financing Plan to the Governing Body, which shall contain the following:

The City of Troy’s Downtown Development Area wishes to avoid deterioration of its property values. In order to avoid property tax value deterioration and to continue to increase property tax valuations and facilitate the overall economic growth of its Business District, it is deemed to be beneficial and necessary to create and provide for the operation of a Downtown Development Authority in the city under the provisions of Act 197 Public Acts of Michigan, 1975 as amended (the “Act”).

The Authority has determined that a Tax Increment Financing Plan is necessary for the achievement of the purposes of the Act and it is authorized to prepare and submit said Plan to the Governing Body. The Tax Increment Financing Plan (the “Plan”), set forth herein shall include a Development Plan, a detailed explanation of the Tax Increment procedure, the maximum amount of bonded indebtedness to

be incurred, the duration of the program, the impact of Tax Increment Financing on the assessed values of all taxing jurisdictions in which the Development Area is located and a statement of the portion of the Captured Assessed Value to be used by the Authority.

3. EXPLANATION OF THE TAX INCREMENT PROCEDURE

The theory of Tax Increment Financing holds that investment is necessary and capital improvements in a designated area within a Municipality will result in greater property tax revenues from that area than would otherwise occur if no special development were undertaken. This section is intended to explain the Tax Increment procedure.

A. In order to provide a Downtown Development Authority with the means of financing development proposals, the Act affords the opportunity to undertake Tax Increment Financing or Development Programs. These programs must be identified in a Tax Increment Financing Plan, which has been approved by the Governing Body of a Municipality. Tax Increment Financing permits the Authority to capture incremental tax revenues attributable to increases in value of Real and Personal Property located within an approved Development area. The increases in property value may be attributable to new construction, rehabilitation, remodeling, alterations, additions or any other factors, which cause growth in value.

B. At the time the Resolution establishing a Tax Increment Financing Plan is approved, the sum of the most recently assessed values, as equalized, of those taxable properties located within the Development Area is established as the "Initial Assessed Value." Property exempt from taxation at the time of determination of the Initial Assessed Value is included as zero. In each subsequent year, the total Real and Personal Property within the District, including abated property on separate rolls is established as the "Current Assessed Value."

C. The amount by which the Total Assessed Value exceeds the IAV is the CAV. During the period in which a Tax Increment financing Plan is in effect, local taxing jurisdictions continue to receive ad valorem taxes based on the IAV. Property taxes paid on a predetermined portion of the CAV in years subsequent to the adoption of a Tax Increment Financing Plan, however, are payable to an Authority for the purposes established in the Tax Increment Financing Plan.

4. TAXING JURISDICTION AGREEMENTS

Tax increment revenues for the Downtown Development authority result from the application of the general tax rates of the incorporated municipalities and all other political subdivisions, which levy taxes in the Development Area to the Captured Assessed Value. Since the Plan may provide for the use of all or part of the captured tax increment revenue, the Downtown Development authority may enter into agreements which any of the taxing units to share a portion of the revenue of the District.

The Authority intends to utilize all captured revenue from the District for projects identified under its Work Program for the duration of this Development Plan and TIF Plan.

5. PROPERTY VALUATIONS AND CAPTURED REVENUE

The property valuation on which incremental tax revenues will be captured is the difference between the Initial Assessed Valuation and the Captured Assessed Valuation. The purpose of this section is to set forth the Initial Assessed Valuation, the projected Captured Assessed Valuation and the anticipated increment revenues to be received by the Authority from the Local Taxing Jurisdictions including the City of Troy, the and any other authorities or special tax districts that may be eligible to levy property taxes within the boundaries of the Downtown Development authority, herein collectively referred to as the "Local Taxing Jurisdictions."

- a) The Initial Assessed Valuation entails that previously established through Tax Increment Financing Plan #1. It is based on the 1993 State Equalized Valuations on Real and Personal Property on all non-exempt parcels within the Development Area. The Initial Assessed Valuation is detailed below:

Total Real Property	\$342,342,400
Total Personal Property	<u>\$ 86,936,130</u>
Initial Assessed Valuation	<u>\$429,278,530</u>

- b) The anticipated Captured Assessed Value is equivalent to the annual total assessed value within the Authority Boundaries less the Initial Assessed Value as described above. The CAV then becomes the basis for the property tax levy on which incremental taxes are collected. The CAV is projected based on a number of factors including historical growth patterns, recent construction trends, economic indicators and the impact of certain development projects anticipated to be undertaken by the Downtown Development Authority. For projection purposes, the inflationary growth factor applied to annual valuation is 1.0%.
- c) The Authority will receive that portion of the tax levy of all taxing jurisdictions paid each year on the Captured Assessed Value of the eligible property included in the Development Area). Provided the captured tax increment revenues are not directed back to the local taxing jurisdictions by agreement, the Authority may use the revenues for any legal purpose as is established under the Act. Millage specifically levied for the payment of principal of and interest on obligations approved by the Electors or obligations pledging the unlimited taxing power of the Local Governmental Unit shall be captured but reimbursed to the appropriate taxing jurisdictions.

For instance, if the tax rate is 60.00 mills per \$1,000 of assessed valuation, the tax increment will be 60.00 mills applied to the total Captured Assessed Valuation unless tax abatements have been granted to specific industries whereby the tax increment may be collected on a lower millage amount.

The City Treasurer will collect the general property taxes from property owners in the Downtown Area. After taxes are collected, the Treasurer will deduct that portion of the total tax that is captured assessed value of the Downtown Development Authority and distribute them to the authority to use for purposes outlined in the Development Plan.

A review of the 2001 millage rates for all Local Taxing Jurisdictions in the Development Area is as set forth in Table #1 TDDA – Tax Increment Revenue.

6. MAXIMUM INDEBTEDNESS

Changes to Tax Increment Financing imposed through approval of Proposal A in March 1994 prohibit the use of such revenues for reimbursement of bond indebtedness in projects established after December 31, 1993. The state legislature amended Proposal A to allow for non-school revenues to be used by Downtown Development Authorities to issue bonds.

Effective upon the retirement, redemption or other defeasance of all Outstanding Bonds, the provisions of Section 14(2) of Plan #1 are amended to conform with the statutory provisions of Act 197, as amended, in effect at the time of the issuance of any future indebtedness of the City, the TDDA or both. The more restrictive provisions in Plan #1 or Plan #2 of the TDDA including, but not limited to, limitations set for the in Section 14(2) of Plan #1 on the percentage and/or amount of TDDA tax increment revenues that may be pledged and restrictions on the total aggregate amount of borrowing of the TDDA shall be of no further force and effect with respect to such future indebtedness.

7. USE OF CAPTURED REVENUES

Revenues captured through this Tax Increment Finance Plan will be used to finance Work Program Activities outlined in Section 6 of the Development Plan. Captured revenues will be used to pay for costs associated with the operation of this Development Plan.

8. DURATION OF THE PROGRAM

The duration of the Development Plan shall extend through the collection of taxes levied through December of 2018.

9. PLAN IMPACT ON LOCAL TAXING JURISDICTIONS

The Authority recognizes that future development in the city's business district cannot be fully achieved in the absence of Tax Increment Financing. The authority also recognizes that enhancement of the value of nearby property will indirectly benefit all Local Governmental Units included in this Plan. It is expected that the effected Local Taxing Jurisdictions will experience some loss of property tax revenues during the first ten (10) years of the Plan and should realize increased property tax revenues thereafter as a result of Capital Improvements financed by the Plan. Such future benefits cannot be accurately quantified at this time.

10. RELEASE OF CAPTURED REVENUES

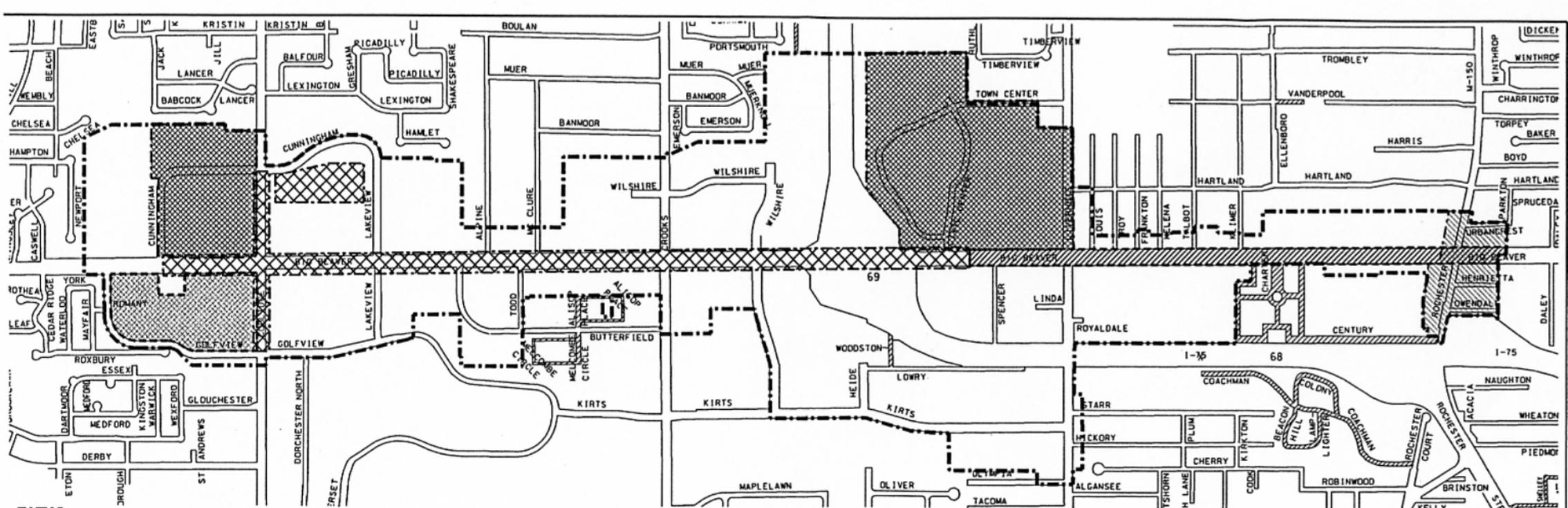
When the Development and Financing Plans have been accomplished, the captured revenue shall be released and the Local Taxing Jurisdictions shall receive their revenue share due following the date of release.

MAP 1



Note: The information provided by this program has been compiled from recorded deeds, plats, taxmaps, surveys, and other public records and data. It is not a legally recorded map or survey. Users of this data are hereby notified that the source information represented should be consulted for verification.





-  D.D.A. / T.I.F.A. BOUNDARY
-  SOMERSET NORTH PROJECT
-  KMART & COMMUNITY CTR. PROJECTS
-  BIG BEAVER ROAD PROJECT
-  ROCHESTER ROAD PROJECT
-  TROY PLACE PROJECT

DOWNTOWN DEVELOPMENT AUTHORITY

CITY OF TROY, MICHIGAN

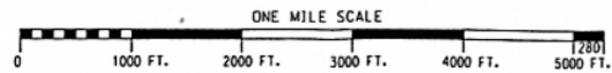


TABLE 3
CITY OF TROY
COUNTY OF OAKLAND, STATE OF MICHIGAN
DOWNTOWN DEVELOPMENT AUTHORITY
***(Actual through 2002)**

TDDA - TAX INCREMENT REVENUE

Year	Projected SEV (T/V after 1994) in District	Initial Assessed Value	Captured SEV (T/V after 1994) in District	(2001) Oakland Community College 1.5952	(2001) County of Oakland 4.6438	(2001) City of Troy 9.4500	Total Yearly Capture	Total Debt Service	Amount Available Admin. & Other Expenses
1993	429,278,530 *	429,278,530 *	0 *	0	0	0			
1994	450,682,090 *	429,278,530 *	21,403,560 *	34,143	99,394	202,906	336,443		336,443
1995	482,321,290 *	429,278,530 *	53,042,760 *	84,614	246,320	502,845	833,779	172,596	661,183
1996	513,251,790 *	429,278,530 *	83,973,260 *	133,954	389,955	796,067	1,319,976	1,429,764	(109,788)
1997	582,784,390 *	429,278,530 *	153,505,860 *	244,873	712,851	1,455,236	2,412,959	1,695,743	717,216
1998	634,117,140 *	429,278,530 *	204,838,610 *	326,759	951,230	1,941,870	3,219,858	1,918,540	1,301,318
1999	653,782,621 *	429,278,530 *	224,504,091 *	358,129	1,042,552	2,128,299	3,528,980	1,934,500	1,594,480
2000	677,550,840 *	429,278,530 *	248,272,310 *	396,044	1,152,927	2,353,621	3,902,592	1,936,256	1,966,336
2001	687,261,110 *	429,278,530 *	257,982,580 *	411,534	1,198,020	2,445,675	4,055,228	1,973,000	2,082,228
2002	700,292,970 *	429,278,530 *	271,014,440 *	432,322	1,258,537	2,561,086	4,251,946	3,006,000	1,245,946
2003	710,501,087	429,278,530 *	281,222,557	448,606	1,305,941	2,657,553	4,412,101	3,434,000	978,101
2004	721,339,468	429,278,530 *	292,060,938	465,896	1,356,273	2,759,976	4,582,144	3,564,000	1,018,144
2005	732,817,300	429,278,530 *	303,538,770	484,205	1,409,573	2,868,441	4,762,220	3,654,000	1,108,220
2006	744,944,337	429,278,530 *	315,665,807	503,550	1,465,889	2,983,042	4,952,481	3,792,000	1,160,481
2007	757,730,910	429,278,530 *	328,452,380	523,947	1,525,267	3,103,875	5,153,089	3,865,000	1,288,089
2008	771,187,932	429,278,530 *	341,909,402	545,414	1,587,759	3,231,044	5,364,217	3,932,000	1,432,217
2009	785,326,913	429,278,530 *	356,048,383	567,968	1,653,417	3,364,657	5,586,043	3,985,000	1,601,043
2010	800,159,963	429,278,530 *	370,881,433	591,630	1,722,299	3,504,830	5,818,759	3,673,000	2,145,759
2011	805,813,646	429,278,530 *	376,535,116	600,649	1,748,554	3,558,257	5,907,459	3,678,000	2,229,459
2012	811,742,596	429,278,530 *	382,464,066	610,107	1,776,087	3,614,285	6,000,479	3,745,000	2,255,479
2013	817,945,228	429,278,530 *	388,666,698	620,001	1,804,890	3,672,900	6,097,792	3,795,000	2,302,792
2014	824,420,104	429,278,530 *	395,141,574	630,330	1,834,958	3,734,088	6,199,376	3,530,000	2,669,376
2015	831,165,933	429,278,530 *	401,887,403	641,091	1,866,285	3,797,836	6,305,211	3,566,000	2,739,211
2016	838,181,563	429,278,530 *	408,903,033	652,282	1,898,864	3,864,134	6,415,280	3,597,000	2,818,280
2017	845,465,984	429,278,530 *	416,187,454	663,902	1,932,691	3,932,971	6,529,565	3,622,000	2,907,565
2018	853,018,320	429,278,530 *	423,739,790	675,950	1,967,763	4,004,341	6,648,054	3,645,000	3,003,054

* Actual

RESOLUTION
SENATE BILL #3
Submitted by Councilman Eisenbacher

WHEREAS, Michigan Public Act 179 of 1947 provides for the formation of municipal trash authorities, but fails to provide provisions for members to withdraw or for the dissolution of the authority; and

WHEREAS, Michigan Senate Bill No. 3 addresses these omissions and seeks to institute a procedure for a municipality to withdraw from its trash authority or for the dissolution of the authority where it no longer serves the purpose for which it was formed; and

WHEREAS, Senate Bill No 3 gives municipalities the freedom to withdraw from its authority, to dissolve the authority or to recombine with other municipalities in some new form to provide trash disposal services; and

WHEREAS, Trash authorities that don't compete for members have little or no incentive to innovate or to save taxpayer money; and

WHEREAS, Senate Bill No. 3 also enables municipalities the freedom to pursue a wider range of options with respect to trash disposal services; and

WHEREAS, Municipal members would no longer be forced to accept poor services and expensive, perpetual, no-bid contracts, against the desires of their constituents; and

WHEREAS, Providing municipalities with greater options will serve to save taxpayer money.

NOW, THEREFORE, BE IT RESOLVED That the City of Troy strongly supports Senate Bill 3.

BE IT FURTHER RESOLVED That the City of Troy Council instructs its representatives to the Southeastern Oakland County Resource Recovery Authority (SOCRRA) to introduce and/or support a resolution having SOCRRA support Senate Bill No. 3 and to direct its lobbying activity to be consistent with this resolution.

BE IT FURTHER RESOLVED That City of Troy Council Resolution #2000-505 is repealed in its entirety.

BE IT FINNALLY RESOLVED That the City Clerk send a copy of this resolution to State Senator Shirley Johnson, Representatives David Woodward, John Pappageorge and Robert Gosselin, Governor John Engler, members of the Michigan State Senate, the Michigan Municipal League, the SOCRRA general manager, the Oakland County Commissioners, the elected officials and city managers for the SOCRRA communities.

----- Original Message -----

From: David Eisenbacher

Sent: Sunday, June 02, 2002 5:10 PM

To: Robin Beltramini (E-mail); Dave Lambert (E-mail); Martin Howrylak (E-mail); Matt Pryor (E-mail); Tony Pallotta (E-mail); Tony Pallotta (E-mail 2); Cristina Broomfield (E-mail); John Szerlag (E-mail)

Cc: Richard "Red" Hughes (E-mail); Victor Lenivov (E-mail)

Subject: Proposed resolution supporting Michigan Senate Bill 3

Hello fellow council members and John Szerlag,

Please find below the text of a resolution I plan to propose on Monday night during council comments. I am also attaching a copy of the original resolution #2000-505 and copies of the House and Senate analysis of Senate Bill 3 sponsored by Sen. Shirley Johnson.

Link to the Senate website with further information about SB3.

<http://198.109.173.12/mileg.asp?page=getObject&objName=2001-SB-0003&userid=>

Best Regards,
David Eisenbacher
Troy City Councilman

Troy, June 3, 2002

Proposed Resolution #2002-
Moved by
Supported by

WHEREAS, Michigan Public Act 179 of 1947 provides for the formation of municipal trash authorities, but fails to provide provisions for members to withdraw or for the dissolution of the authority; and

WHEREAS, Michigan Senate Bill No. 3 addresses these omissions and seeks to institute a procedure for a municipality to withdraw from its trash authority or for the dissolution of the authority where it no longer serves the purpose for which it was formed; and

WHEREAS, Senate Bill No. 3 gives municipalities the freedom to withdraw from its trash authority, to dissolve the authority or to recombine with other municipalities in some new form to provide trash disposal services; and

WHEREAS, trash authorities that don't compete for members have little or no incentive to innovate or to save taxpayer money; and

WHEREAS, Senate Bill No. 3 also enables municipalities the freedom to pursue a wider range of options with respect to trash disposal services; and

WHEREAS, municipal members would no longer be forced to accept poor services and expensive, perpetual, no-bid contracts, against the desires of their constituents; and

WHEREAS, providing municipalities with the option of leaving their own trash authority works to greatly enhance home rule authority; and

WHEREAS, providing municipalities with greater options will serve to save taxpayer money, and

THEREFORE, BE IT RESOLVED that the City of Troy strongly supports Senate Bill 3, and

BE IT FURTHER RESOLVED that the City of Troy instructs its representatives to the Southeastern Oakland County Resource Recovery Authority (SOCRRA) to introduce and/or support a resolution having SOCRRA support Senate Bill No. 3 and to direct its lobbying activity to be consistent with this resolution, and

BE IT FURTHER RESOLVED that City of Troy Council Resolution #2000-505 is repealed in its entirety, and

BE IT FURTHER RESOLVED, that the City Clerk send a copy of this resolution to State Senator Shirley Johnson, Representative David Woodward, John Pappageorge and Robert Gosselin, Governor John Engler, members of the Michigan State Senate, the Michigan Municipal League, the SOCRRA general manager, the Oakland County Commissioners, the elected officials and city managers for the SOCRRA communities.

SUBSTITUTE FOR
SENATE BILL NO. 3

A bill to amend 1947 PA 179, entitled

"An act to provide for the incorporation of certain municipal authorities for the collection or disposal, or both, of garbage or rubbish, or both, and for the operation of a dog pound; and to prescribe the powers, rights and duties thereof,"

(MCL 123.301 to 123.310) by adding section 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 11. (1) AFTER THE EFFECTIVE DATE OF THE 2001 AMENDA-
2 TORY ACT THAT ADDED THIS SECTION, A QUALIFIED AUTHORITY SHALL NOT
3 ENTER INTO A CONTRACT UNDER SECTION 6 WITH A TERMINATION DATE
4 AFTER THE TERMINATION DATE OF THE AUTHORITY'S MOST RECENTLY
5 APPROVED CONTRACT UNDER SECTION 5(1).

6 (2) WITHIN 90 DAYS AFTER A QUALIFIED AUTHORITY DECIDES TO
7 SELL OR TRANSFER REAL PROPERTY LOCATED WITHIN THE TERRITORY OF A
8 MEMBER OR FORMER MEMBER, THE MEMBER OR FORMER MEMBER MAY EXERCISE
9 THE RIGHT OF FIRST REFUSAL TO PURCHASE THE REAL PROPERTY AT A

SB 3, As Passed Senate, July 10, 2001

Senate Bill No. 3 as amended June 26, 2001

2

1 PRICE EQUAL TO THE LESSER OF THE REAL PROPERTY'S CURRENT MARKET
2 VALUE OR THE HIGHEST PRICE OFFERED FOR THE REAL PROPERTY IN AN
3 ARM'S LENGTH, BONA FIDE OFFER BY A THIRD PARTY. THE CURRENT
4 MARKET VALUE OF SUCH REAL PROPERTY SHALL BE DETERMINED BY AN
5 APPRAISER ACCEPTABLE TO THE AUTHORITY AND THE INTERESTED MEMBER.
6 ANY DISPUTE REGARDING A DETERMINATION OF CURRENT MARKET VALUE
7 SHALL BE RESOLVED BY INDEPENDENT ARBITRATION.

8 (3) A MEMBER MAY WITHDRAW FROM A QUALIFIED AUTHORITY IF BOTH
9 OF THE FOLLOWING REQUIREMENTS ARE MET:

10 (A) THE LEGISLATIVE BODY OF THE MEMBER ADOPTS A RESOLUTION
11 STATING THAT THE AUTHORITY IS NO LONGER EFFECTIVELY SERVING THE
12 PUBLIC PURPOSES FOR WHICH IT WAS CREATED AND DECLARING ITS DECI-
13 SION TO WITHDRAW FROM THE AUTHORITY ON A DATE SPECIFIED IN THE
14 RESOLUTION. THE DATE SPECIFIED IN THE RESOLUTION SHALL NOT BE
15 LESS THAN 60 DAYS AFTER THE DATE THE RESOLUTION IS ADOPTED.

16 (B) THE CLERK OF THE MEMBER PROMPTLY FILES A CERTIFIED COPY
17 OF THE RESOLUTION ADOPTED UNDER SUBDIVISION (A) WITH THE AUTHOR-
18 ITY AND THE SECRETARY OF STATE.

19 (4) BY THE WITHDRAWAL DATE SPECIFIED UNDER SUBSECTION
20 (3) (A), THE WITHDRAWING MEMBER SHALL PAY THE QUALIFIED AUTHORITY
21 THE WITHDRAWING MEMBER'S FAIR SHARE OF THE NEGATIVE EQUITY OF THE
22 AUTHORITY, IF ANY. THIS SUBSECTION DOES NOT RELIEVE THE WITH-
23 DRAWING MEMBER FROM ~~THE MEMBER'S FAIR SHARE OF~~ ANY OBLIGATION TO
24 REIMBURSE THE AUTHORITY
25 FOLLOWING THE MEMBER'S WITHDRAWAL FOR ANY ENVIRONMENTAL LIABILI-
26 TIES SUBSEQUENTLY INCURRED BY THE AUTHORITY, TO THE EXTENT THAT
THE ENVIRONMENTAL LIABILITIES RESULT DIRECTLY FROM THE

SB 3, As Passed Senate, July 10, 2001

Senate Bill No. 3

3

1 AUTHORITY'S DISPOSAL OF THE WITHDRAWN MEMBER'S MUNICIPAL SOLID
2 WASTE, RECYCLABLE MATERIALS, OR YARD WASTE.

3 (5) BY THE WITHDRAWAL DATE SPECIFIED UNDER SUBSECTION
4 (3) (A), THE QUALIFIED AUTHORITY SHALL PAY THE WITHDRAWING MEMBER
5 THE WITHDRAWING MEMBER'S FAIR SHARE OF THE EQUITY OF THE
6 AUTHORITY.

7 (6) A QUALIFIED AUTHORITY SHALL DISSOLVE IF BOTH OF THE FOL-
8 LOWING REQUIREMENTS ARE MET:

9 (A) THE LEGISLATIVE BODIES OF A MAJORITY OF THE MEMBERS,
10 WEIGHTED BY THE PERCENTAGE OF RECENT WASTE DELIVERY, EACH ADOPT A
11 RESOLUTION STATING THAT THE AUTHORITY IS NO LONGER EFFECTIVELY
12 SERVING THE PUBLIC PURPOSES FOR WHICH IT WAS CREATED AND DIRECT-
13 ING THAT THE AUTHORITY BE DISSOLVED PURSUANT TO THIS SUBSECTION
14 AND SUBSECTIONS (7) TO (9).

15 (B) THE CLERK OF EACH MEMBER WHOSE LEGISLATIVE BODY ADOPTS A
16 RESOLUTION UNDER SUBDIVISION (A) PROMPTLY FILES A CERTIFIED COPY
17 OF THE RESOLUTION WITH THE AUTHORITY AND THE SECRETARY OF STATE.

18 (7) WITHIN 6 MONTHS AFTER THE REQUIREMENTS OF SUBSECTION (6)
19 ARE MET, THE QUALIFIED AUTHORITY SHALL CEASE THE ACTIVITIES
20 DESCRIBED IN SECTION 1 FOR WHICH IT WAS INCORPORATED. WITHIN
21 6 MONTHS AFTER CEASING SUCH ACTIVITIES, THE AUTHORITY SHALL
22 SETTLE ITS ACCOUNTS, INCLUDING, BUT NOT LIMITED TO, ALL VESTED OR
23 ACCRUED EMPLOYEE BENEFITS, EMPLOYMENT CONTRACTS, AND UNEMPLOYMENT
24 COMPENSATION, AND, SUBJECT TO SUBSECTION (2), SHALL SELL ALL OF
25 ITS PROPERTY.

SB 3, As Passed Senate, July 10, 2001

Senate Bill No. 3 as amended June 26, 2001

4

1 (8) IMMEDIATELY AFTER THE REQUIREMENTS OF SUBSECTION (7) ARE
2 MET, THE QUALIFIED AUTHORITY SHALL DISTRIBUTE TO EACH MEMBER THAT
3 MEMBER'S FAIR SHARE OF THE AUTHORITY'S REMAINING ASSETS.

4 (9) UPON DISTRIBUTION OF THE QUALIFIED AUTHORITY'S ASSETS
5 UNDER SUBSECTION (8), BOTH OF THE FOLLOWING APPLY:

6 (A) THE AUTHORITY IS DISSOLVED.

7 (B) ALL LIABILITIES OF EACH MEMBER AND FORMER MEMBER OF THE
8 AUTHORITY ARE TERMINATED, EXCEPT FOR ANY ENVIRONMENTAL LIABILI-
9 TIES SUBSEQUENTLY ATTRIBUTED TO THE AUTHORITY TO THE EXTENT THAT
10 THE ENVIRONMENTAL LIABILITIES RESULT DIRECTLY FROM THE
11 AUTHORITY'S DISPOSAL OF THE MEMBER'S FAIR SHARE OF OR FORMER
12 MEMBER'S FAIR SHARE OF MUNICIPAL
13 SOLID WASTE, RECYCLABLE MATERIALS, OR YARD WASTE.

14 (10) SUBSECTIONS (6) TO (9) DO NOT PREVENT THE INCORPORATION
15 OF A NEW AUTHORITY BY SOME OR ALL OF THE FORMER MEMBERS OF AN
16 AUTHORITY DISSOLVED UNDER SUBSECTIONS (6) TO (9).

17 (11) IF, AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
18 ADDED THIS SECTION, A QUALIFIED AUTHORITY IS INCORPORATED OR
19 AMENDS ITS ARTICLES OF INCORPORATION, THE QUALIFIED AUTHORITY
20 SHALL INCLUDE IN ITS ARTICLES THE PROVISIONS OF SUBSECTIONS (3)
21 TO (10).

22 (12) AS USED IN THIS ACT:

23 (A) "APPRAISER" MEANS AN INDIVIDUAL LICENSED UNDER
24 ARTICLE 26 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2601 TO
25 339.2637.

26 (B) "AUTHORITY" MEANS AN AUTHORITY INCORPORATED UNDER THIS
27 ACT.

SB 3, As Passed Senate, July 10, 2001

Senate Bill No. 3

5

1 (C) "CORRECTIVE ACTION" MEANS THAT TERM AS DEFINED IN
2 SECTION 11502 OF THE NATURAL RESOURCES AND ENVIRONMENTAL
3 PROTECTION ACT, 1994 PA 451, MCL 324.11502.

4 (D) "ENVIRONMENTAL LIABILITIES" MEANS THE COSTS OF LANDFILL
5 CLOSURE AND POSTCLOSURE OBLIGATIONS, THE COSTS OF CORRECTIVE
6 ACTION, RESPONSE ACTIVITY COSTS, AND FINES, PENALTIES, OR DAMAGES
7 REQUIRED OR ASSESSED BY THE STATE UNDER THE NATURAL RESOURCES AND
8 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.101 TO
9 324.90106.

10 (E) "EQUITY OF THE AUTHORITY" MEANS THE TOTAL FUND EQUITY OF
11 THE AUTHORITY AS SET FORTH IN ITS MOST RECENT AUDITED ANNUAL
12 FINANCIAL STATEMENTS EXCEPT THAT LIABILITIES SHALL BE REDUCED BY
13 ANY ESTIMATED LIABILITIES THAT WERE INCLUDED IN DETERMINING TOTAL
14 FUND EQUITY.

15 (F) "FORMER MEMBER" MEANS A MEMBER THAT HAS WITHDRAWN FROM A
16 QUALIFIED AUTHORITY UNDER THE TERMS OF THIS ACT OR A PRIOR MEMBER
17 OF A QUALIFIED AUTHORITY THAT HAS BEEN DISSOLVED UNDER THE TERMS
18 OF THIS ACT.

19 (G) "MEMBER" MEANS A MUNICIPALITY THAT INCORPORATED A QUALI-
20 FIED AUTHORITY UNDER SECTION 1 OR THAT BECAME PART OF A QUALIFIED
21 AUTHORITY UNDER SECTION 7 AND WHOSE PARTICIPATION IN THE AUTHOR-
22 ITY HAS NOT BEEN TERMINATED BY AN ACT OF THE LEGISLATURE.

23 (H) "MEMBER'S FAIR SHARE" MEANS THE PERCENTAGE OF THE TOTAL
24 AMOUNT OF MUNICIPAL SOLID WASTE, RECYCLABLE MATERIALS, AND YARD
25 WASTE DISPOSED OF BY THE AUTHORITY SINCE ITS FOUNDING UP TO AND
26 INCLUDING THE LAST FULL CALENDAR YEAR, THAT WAS GENERATED WITHIN

SB 3, As Passed Senate, July 10, 2001

Senate Bill No. 3

6

1 THE MEMBER'S TERRITORY, AS DETERMINED, IN THE EVENT OF A DISPUTE,
2 BY INDEPENDENT ARBITRATION.

3 (I) "PERCENTAGE OF RECENT WASTE DELIVERY" MEANS THE AMOUNT
4 OF MUNICIPAL SOLID WASTE, RECYCLABLE MATERIALS, AND YARD WASTE
5 GENERATED WITHIN A PARTICULAR MEMBER'S TERRITORY AND DISPOSED OF
6 BY THE AUTHORITY DURING THE LATEST FULL CALENDAR YEAR FOR WHICH
7 THE AUTHORITY DISPOSED OF SUCH MATERIALS OR WASTE GENERATED
8 WITHIN THE TERRITORY OF THAT MEMBER, DIVIDED BY THE SUM OF SUCH
9 AMOUNTS FOR ALL MEMBERS, AS DETERMINED, IN THE EVENT OF A DIS-
10 PUTE, BY INDEPENDENT ARBITRATION.

11 (J) "QUALIFIED AUTHORITY" MEANS AN AUTHORITY THAT IS COM-
12 POSED OF 10 OR MORE MEMBERS AND HAS A POPULATION RESIDING WITHIN
13 ITS TERRITORY OF 250,000 OR MORE.

14 (K) "RESPONSE ACTIVITY COSTS" MEANS THAT TERM AS DEFINED IN
15 SECTION 20101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTEC-
16 TION ACT, 1994 PA 451, MCL 324.20101.

To: Mayor and City Council
From: Robin Beltramini, Council Member
Subject: Senate Bill 3
Date: July 16, 2002

Senate Bill 3 has been a focus of discussion before this city council, on and off, for over two years. The one consistency in those discussions is that there is no unanimous support for the bill as written. A variety of reasons have been given to oppose this legislation, but the majority of our council voted July 8, 2002 to "support Senate Bill 3 in concept." So, what does that mean? What signal will this send? What might be the repercussions of such a nebulous resolution?

While I still believe that the appropriate place for withdrawal and dissolution mechanisms is local bylaws, not state statute, I also think that our city council could adopt a concise resolution such as:

WHEREAS, Michigan Public Act 179 of 1947 provides for the formation of municipal trash authorities, but fails to provide provisions for members to withdraw or for the dissolution of the authority; and

WHEREAS, the member communities of the Southeastern Oakland County Resource and Recovery Authority have been unable to agree upon amendments to correct these same deficiencies in local bylaws;

THEREFORE, BE IT RESOLVED, that the City of Troy supports strict amendment to Public Act 179 of 1947 in order to address the omitted provisions for withdrawal of members and dissolution of the authority.

I continue to have concerns regarding procedures incorporated in Senate Bill 3, but will address them in a separate memo.

REB



7/18/2002

TO: MAYOR AND MEMBERS OF CITY COUNCIL

FROM: LORI GRIGG BLUHM, CITY ATTORNEY *LG*

RE: SENATE BILL 3

As most of you are aware, Senate Bill 3 proposes amendments to MCL 123.301 et. seq., the garbage and rubbish disposal and dog pound authority act, which was initially passed in 1947, and amended in 1959, 1970, and 1992.

Shirley Johnson's proposed 2001 Senate Bill 3 was passed by the Senate on July 10, 2001 (copy attached), and referred to House Committee on Local Government and Urban Policy. The House Committee on Local Government and Urban Affairs slightly revised the Senate Bill (see attached). No official action has been taken since December 11, 2001, when the bill was referred to a second reading in the Michigan House of Representatives. According to her chief of staff, Brian O'Connell, there is no need for any immediate action. Although Senator Johnson believes that she has sufficient votes to pass the bill, she would like Troy's support before going forward for a vote at the Michigan House of Representatives.

Since the bill is still at the second reading stage, it would be appropriate to offer any potential amendments for consideration. I have reviewed the July 10, 2001 bill, as passed by the Senate, and also the proposed House Committee version. I have some concerns about the bills as they currently exist.

Section (1) –Contract Prohibition- The House Committee has attempted to address several of the issues with the version of SB 3 that was passed by the Senate. For example, the Senate version of SB3 absolutely prohibits any bonding, contracting, or obligations after 2007 (the expiration date of the current SOCRRA contract). In the House version, the language has been modified to prohibit bonding, contracting, extending existing contracts or entering into any binding obligations after the year 2007 UNLESS the action is approved by ALL members of the trash

consortium. This provision could easily mandate dissolution on or before 2007, especially since both Madison Heights and Royal Oak Township are included as members of SOCRRA under the bill (unless and until they withdraw). This bill therefore raises some local control issues, which may not pass constitutional scrutiny, since the legislature should not be able to dictate the dissolution of a properly formed consortium. I would recommend elimination of this section, since it is not necessary. The weighted majority already has the right to decide which contracts are beneficial for the authority. In the alternative, the proposed language could explicitly provide trash consortiums with the ability to extend contracts beyond 2007 upon the approval of a weighted majority vote. (The weighted vote is based on the municipality's most recent year's waste delivery).

The House Committee revision has also added a provision that would prohibit a member from withdrawing from an authority if the withdraw would "cause an impairment of an authority contract." However, it is unlikely that this provision would actually prohibit the withdraw of any member community, since the impairment of contracts is limited to "material defaults that could not be cured by the payment of monetary damages." The one exception to this provision is found in section 4(b) of the House version, which requires the withdrawing member to be liable for money damages incurred by a contract default "if the default and damages result directly and solely from the member's withdrawal and are necessary to prevent an impairment of contract. This provision, unfortunately, does not address what occurs when two municipalities elect to withdraw, which causes a contract default.

Section 2- Required Sale or Transfer of Real Property- The early version of SB 3 mandated the sale of all assets of the authority. Prior to passing the bill, the Senate amended this provision, removing the mandated sale. The newest version of the bill removes the mandate. However, if some of the members of the authority want to form a new garbage consortium, the real property may not be able to be transferred. The current version of SB 3 provides that prior to the sale OR transfer of property, both Troy and Madison Heights (as members under SB 3) would have the first option to purchase the SOCRRA property located in their jurisdictions. Madison Heights would likely purchase the SOCRRA property located in their jurisdiction, since there have been a lot of complaints about the continuation of the facility in Madison Heights. Although Troy would have the ability to waive the purchase of the SOCRRA property located in our municipality, this may not be the best financial decision for Troy, in light of the leverage that the ownership of the facility could provide to Troy. It would be difficult, if not impossible, for a newly formed consortium to obtain replacement property if Troy and Madison Heights were to exercise their first option to purchase real property.

Section (3) (A)- Required Council Resolution-The House Committee also addressed SB 3's requirement for member municipalities to pass a resolution prior to withdraw or dissolution. According to SB 3, the municipalities would need to resolve that "the authority is no longer serving the public purposes for which it was created."

However, according to Article III of the Articles of Incorporation, "The purpose of this Authority is the collection and/or disposal of garbage and rubbish." In my opinion, it would be disingenuous for Troy to pass such a resolution unless the trash hauling contracts with SOCRRA expire. (This would necessarily occur in 2007, since extensions and/or additional contracts are essentially prohibited under Section 1 of the bill). The House Committee version has slightly revised the language to require a resolution that the authority is no longer serving the "public good." If dissolution is requested, then a resolution that focuses upon the effectiveness of the garbage consortium may be appropriate. However, if a member community merely wishes to withdraw from the authority, then the authority is probably meeting the "public good" for the members who wish to remain. In this case, it may be more appropriate for the member to resolve that the garbage authority is no longer meeting the needs of the member municipality.

Another issue is the timing of the withdrawal. Under the Senate version of SB 3, there is a 60 day time period (notification period) between the resolution and the effective date of withdrawal. During this sixty day period, all accounts between the withdrawing member and the garbage consortium must be settled. However, under the House Committee version of the bill, there is still a required sixty day notification period. However, the House Committee version also requires that resolution of withdraw cannot occur within one year before the termination date of the most recent contract. Following this, member municipalities will have only until 2006 to withdraw from the authority, since contracts are not permitted beyond 2007 absent the consent of all authority members.

Section 4- Member's Required Payment Of Negative Equity- The Senate version of SB 3 requires a withdrawing member to pay the member's fair share of the negative equity of the authority within 60 days of the resolution to withdraw (by the withdraw date). Negative equity is not defined in SB 3, but I assume that negative equity requires the member's liabilities to be balanced against the member's assets in the authority. If the liabilities are greater than the assets, then the withdrawing member will make this one time payment, with the sole exception being the percentage payment for environmental liabilities subsequently incurred by the authority. Under this version, if Royal Oak elected to withdraw from SOCRRA, they would need to pay all liabilities up to the point of the withdrawal. However, there is some ambiguity as to whether Royal Oak would be responsible for an environmental liability that was created prior to their withdrawal but discovered subsequent to their withdrawal. In addition, SB 3 has another limitation, in that a withdrawing member is subsequently liable only for those environmental liabilities that "result directly from the authority's disposal of the withdrawn member's municipal solid waste, recyclable materials, or yard waste." This provision may cause many headaches in trying to determine which municipality's waste created the environmental contamination.

Although the Senate version of SB 3 requires the member municipality to make a payment for any negative equity within sixty days, the House Committee

version would allow the municipality, at the municipality's option, to provide a bond or other independent insured guarantee that the negative equity would be paid not later than 30 days after the expiration date of the authority's most recently approved contract. Following this, if a community elects to withdraw from SOCRRA in 2003, it is very likely that the authority will not obtain any cash from the community until 2007, after the current SOCRRA contract expires. This could create problems if some of the municipalities elect to create a subsequent authority.

Section 5- Authority's payment of positive equity to withdrawing members- Under the Senate version of SB 3, it is assumed that the authority would be able to offset any of the withdrawing member's liabilities before paying the withdrawing member's share of the equity. However, this is not expressly provided for in the Senate version of SB 3. This payment of positive equity must be paid within sixty days of the notification to the authority. The Senate version of SB 3 similarly does not distinguish between cash assets and other assets that would need to be liquidated to obtain sufficient resources to pay a withdrawing member's positive equity. The ability of non-cash assets to be liquidated within this sixty day period may present another issue with the Senate version of the bill.

The House Committee version attempts to resolve this issue by allowing the garbage consortium to elect to post a bond or other independent, insured guarantee that the positive equity will be paid to the withdrawing member within thirty days of the expiration of the most recent contract. This may present some complications for municipalities that choose to withdraw in 2003, since SOCRRA would not be obligated to make the positive equity payment to the municipality until 2007. This may be an issue for the municipalities that are currently encountering cash flow problems.

Section 7- Dissolution of authority- Six month settlement period- Both the Senate version and the House version of SB 3 require that all accounts be settled within six months of dissolution. This may present some problems if there are insufficient cash assets to pay all liabilities, and therefore the liquidation of real property would be required. In addition, the dissolution would mandate that all pending lawsuits be settled within this six month period of time. This could result forcing settlements for cases that should really proceed to trial. Upon dissolution, the authority would also need to satisfy the MDEQ that there are sufficient reserves to provide for all future environmental liabilities. Although this could be done by having each member municipality sign an agreement to pay the future liabilities, the MDEQ is likely to require the cash from the authority, which provides a more secure guarantee that the liabilities will be paid, especially in light of the strapped financial position of some of the member communities.

In addition to paying all members their positive equity, setting aside sufficient reserves to meet the MDEQ's demands, and settling all pending lawsuits, a dissolution of the garbage consortium would also require the authority to settle all

pending contracts with its employees, and to settle all current collective bargaining contracts, etc. The word "settle" could be interpreted to allow for the transfer of the current employees and collective bargaining contracts to a newly created authority. However, there is some ambiguity, and "settle" may require SOCRRA to pay all current wages, in addition to paying all retirement and pension obligations, insurance obligations, worker's compensation insurance payments, etc. within six months from the date of dissolution. The employment liabilities could be quite substantial, and may be demanded within six months from the date of dissolution.

Section 10- Incorporation of a new authority- Under this provision, SB 3 does not "prevent the incorporation of a new authority by some or all of the former members of an authority dissolved..." . However, as previously identified, there may be some complications in setting up a new authority. First, if either Madison Heights or Troy exercise their option to purchase the real property assets in their jurisdiction, then a newly created authority would need to secure alternate facilities (or purchase the facilities back) to maintain the same levels of service. Second, the creation of a new authority provides the current waste haulers with the right to veto the assignment of the existing contracts to the new entities. Similarly, the collective bargaining units could also refuse to accept the assignment of their contracts to a newly formed authority. This could put the new authority at a disadvantage.

It is possible for new contracts to be negotiated, without any interruption of service, but this would require extensive forethought and action. Under the Senate version of SB 3, only sixty days of notification of dissolution is required. This may be insufficient time to create a new entity (requires each municipality to first approve the creation), solicit new bids, and to negotiate new contracts.

These are some of the concerns that I have with the current versions of SB 3. Management has also previously set forth some of the potential financial implications, and I have included that memo for your consideration as well. I have also included a copy of an alternate draft proposal by SOCRRA lobbyists Dykema Gossett that was submitted in early 2001. This draft would mandate changes to the authority's by-laws that would allow withdrawal of members and/or dissolution. I have not analyzed this proposed substitution in depth, but would be happy to upon request.

I am happy to address any questions that you have concerning the above.

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 3

A bill to amend 1947 PA 179, entitled

"An act to provide for the incorporation of certain municipal authorities for the collection or disposal, or both, of garbage or rubbish, or both, and for the operation of a dog pound; and to prescribe the powers, rights and duties thereof,"

(MCL 123.301 to 123.310) by adding section 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 11. (1) AFTER THE EFFECTIVE DATE OF THE 2001 AMENDA-
2 TORY ACT THAT ADDED THIS SECTION, A QUALIFIED AUTHORITY SHALL NOT
3 ENTER INTO OR EXTEND ANY CONTRACT, OBLIGATION, BOND, OR NOTE THAT
4 HAS, OR AS EXTENDED WOULD HAVE, A TERMINATION DATE AFTER THE TER-
5 MINATION DATE OF THE AUTHORITY'S MOST RECENTLY APPROVED CONTRACT
6 UNDER SECTION 5(1), UNLESS THE CONTRACT, OBLIGATION, BOND, OR
7 NOTE OR EXTENSION THEREOF, IS APPROVED BY ALL MEMBERS.

8 (2) WITHIN 90 DAYS AFTER A QUALIFIED AUTHORITY DECIDES TO
9 SELL OR TRANSFER REAL PROPERTY LOCATED WITHIN THE TERRITORY OF A

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1 MEMBER OR FORMER MEMBER, THE MEMBER OR FORMER MEMBER MAY EXERCISE
2 THE RIGHT OF FIRST REFUSAL TO PURCHASE THE REAL PROPERTY AT A
3 PRICE EQUAL TO THE LESSER OF THE REAL PROPERTY'S CURRENT MARKET
4 VALUE OR THE HIGHEST PRICE OFFERED FOR THE REAL PROPERTY IN AN
5 ARM'S LENGTH, BONA FIDE OFFER BY A THIRD PARTY. THE CURRENT
6 MARKET VALUE OF SUCH REAL PROPERTY SHALL BE DETERMINED BY AN
7 APPRAISER ACCEPTABLE TO THE AUTHORITY AND THE INTERESTED MEMBER.
8 ANY DISPUTE REGARDING A DETERMINATION OF CURRENT MARKET VALUE
9 SHALL BE RESOLVED BY INDEPENDENT ARBITRATION.

10 (3) UNLESS ITS WITHDRAWAL WOULD CAUSE AN IMPAIRMENT OF AN
11 AUTHORITY CONTRACT UNDER SECTION 6, A MEMBER MAY WITHDRAW FROM A
12 QUALIFIED AUTHORITY IF ALL OF THE FOLLOWING REQUIREMENTS ARE
13 MET:

14 (A) THE LEGISLATIVE BODY OF THE MEMBER ADOPTS A RESOLUTION
15 STATING THAT THE AUTHORITY IS NO LONGER EFFECTIVELY SERVING THE
16 PUBLIC GOOD FOR WHICH IT WAS CREATED AND DECLARING ITS DECISION
17 TO WITHDRAW FROM THE AUTHORITY ON A DATE SPECIFIED IN THE
18 RESOLUTION.

19 (B) THE WITHDRAWAL DATE SPECIFIED IN THE RESOLUTION UNDER
20 SUBDIVISION (A) IS NOT EITHER OF THE FOLLOWING:

21 (i) LESS THAN 60 DAYS AFTER THE DATE THE RESOLUTION IS
22 ADOPTED.

23 (ii) WITHIN 1 YEAR BEFORE THE TERMINATION DATE OF THE
24 AUTHORITY'S MOST RECENTLY APPROVED CONTRACT UNDER SECTION 5(1)
25 UNLESS THE FILINGS REQUIRED BY SUBDIVISION (C) ARE MADE MORE THAN
26 1 YEAR BEFORE THE SPECIFIED WITHDRAWAL DATE.

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1 (C) THE CLERK OF THE MEMBER PROMPTLY FILES A CERTIFIED COPY
2 OF THE RESOLUTION ADOPTED UNDER SUBDIVISION (A) WITH THE
3 AUTHORITY AND THE SECRETARY OF STATE.

4 (4) BY THE WITHDRAWAL DATE, THE WITHDRAWING MEMBER, AT ITS
5 OPTION, EITHER SHALL PAY TO THE AUTHORITY THE AMOUNT OF THE WITH-
6 DRAWING MEMBER'S FAIR SHARE OF THE NEGATIVE EQUITY OF THE AUTHOR-
7 ITY, IF ANY, DETERMINED AS OF THE WITHDRAWAL DATE, OR SHALL PRO-
8 VIDE THE AUTHORITY WITH A BOND OR OTHER INDEPENDENT, INSURED
9 GUARANTEE THAT ANY SUCH AMOUNT WILL BE PAID NOT LATER THAN 30
10 DAYS AFTER THE EXPIRATION DATE OF THE AUTHORITY'S MOST RECENTLY
11 APPROVED CONTRACT UNDER SECTION 5(1). THIS SUBSECTION DOES NOT
12 RELIEVE THE WITHDRAWING MEMBER FROM EITHER OF THE FOLLOWING:

13 (A) THE MEMBER'S FAIR SHARE OF ANY OBLIGATION TO REIMBURSE
14 THE AUTHORITY FOLLOWING THE MEMBER'S WITHDRAWAL FOR ANY ENVIRON-
15 MENTAL LIABILITIES SUBSEQUENTLY INCURRED BY THE AUTHORITY, TO THE
16 EXTENT THAT THE ENVIRONMENTAL LIABILITIES RESULT FROM THE
17 AUTHORITY'S DISPOSAL OF THE WITHDRAWN FORMER MEMBER'S MUNICIPAL
18 SOLID WASTE, RECYCLABLE MATERIALS, OR YARD WASTE.

19 (B) THE MEMBER'S PAYMENT OF ANY MONEY DAMAGES, OWED ON
20 ACCOUNT OF ITS OR THE AUTHORITY'S DEFAULT UNDER A CONTRACT UNDER
21 SECTION 6 IF THE DEFAULT AND DAMAGES RESULT DIRECTLY AND SOLELY
22 FROM THE MEMBER'S WITHDRAWAL AND ARE NECESSARY TO PREVENT AN
23 IMPAIRMENT OF THE CONTRACT.

24 (5) AT THE OPTION OF THE AUTHORITY, BY THE WITHDRAWAL DATE,
25 THE AUTHORITY SHALL PAY TO THE WITHDRAWING MEMBER THE WITHDRAWING
26 MEMBER'S FAIR SHARE OF THE EQUITY OF THE AUTHORITY, DETERMINED AS
27 OF THE WITHDRAWAL DATE, OR SHALL PROVIDE THE WITHDRAWING MEMBER

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1 WITH A BOND OR OTHER INDEPENDENT, INSURED GUARANTEE THAT SUCH
2 AMOUNT WILL BE PAID NO LATER THAN 30 DAYS AFTER THE EXPIRATION
3 DATE OF THE AUTHORITY'S MOST RECENTLY APPROVED CONTRACT UNDER
4 SECTION 5(1). IF AN AUTHORITY ELECTS TO PROVIDE SUCH A BOND OR
5 OTHER GUARANTEE, THE WITHDRAWN FORMER MEMBER MAY DIRECT THE BOND-
6 ING COMPANY OR GUARANTOR AT ANY TIME THEREAFTER TO PAY FROM THE
7 BOND OR OTHER GUARANTEE ANY OBLIGATION OR LIABILITY OWED TO THE
8 AUTHORITY BY THE WITHDRAWN FORMER MEMBER, INCLUDING, BUT NOT
9 LIMITED TO, AN OBLIGATION DESCRIBED IN SUBSECTION (4) (A) OR (B).

10 (6) UNLESS IT WOULD CAUSE AN IMPAIRMENT OF AN AUTHORITY CON-
11 TRACT UNDER SECTION 6, A QUALIFIED AUTHORITY SHALL DISSOLVE IF
12 BOTH OF THE FOLLOWING REQUIREMENTS ARE MET:

13 (A) THE LEGISLATIVE BODIES OF A MAJORITY OF THE MEMBERS,
14 WEIGHTED BY THE PERCENTAGE OF RECENT WASTE DELIVERY, EACH ADOPT A
15 RESOLUTION STATING THAT THE AUTHORITY IS NO LONGER EFFECTIVELY
16 SERVING THE PUBLIC GOOD FOR WHICH IT WAS CREATED AND DIRECTING
17 THAT THE AUTHORITY BE DISSOLVED PURSUANT TO THIS SUBSECTION AND
18 SUBSECTIONS (7) TO (9).

19 (B) THE CLERK OF EACH MEMBER WHOSE LEGISLATIVE BODY ADOPTS A
20 RESOLUTION UNDER SUBDIVISION (A) PROMPTLY FILES A CERTIFIED COPY
21 OF THE RESOLUTION WITH THE AUTHORITY AND THE SECRETARY OF STATE.

22 (7) WITHIN 6 MONTHS AFTER THE REQUIREMENTS OF SUBSECTION (6)
23 ARE MET, THE QUALIFIED AUTHORITY SHALL CEASE THE ACTIVITIES
24 DESCRIBED IN SECTION 1 FOR WHICH IT WAS INCORPORATED. WITHIN
25 6 MONTHS AFTER CEASING SUCH ACTIVITIES, THE AUTHORITY SHALL
26 SETTLE ITS ACCOUNTS, INCLUDING, BUT NOT LIMITED TO, ALL VESTED OR
27 ACCRUED EMPLOYEE BENEFITS, EMPLOYMENT CONTRACTS, COLLECTIVE

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1 BARGAINING AGREEMENTS, AND UNEMPLOYMENT COMPENSATION, AND,
2 SUBJECT TO SUBSECTION (2), SHALL SELL ALL OF ITS PROPERTY.

3 (8) IMMEDIATELY AFTER THE REQUIREMENTS OF SUBSECTION (7) ARE
4 MET, THE QUALIFIED AUTHORITY SHALL DISTRIBUTE TO EACH MEMBER THAT
5 MEMBER'S FAIR SHARE OF THE AUTHORITY'S REMAINING ASSETS.

6 (9) UPON DISTRIBUTION OF THE QUALIFIED AUTHORITY'S ASSETS
7 UNDER SUBSECTION (8), BOTH OF THE FOLLOWING APPLY:

8 (A) THE AUTHORITY IS DISSOLVED.

9 (B) ALL LIABILITIES OF EACH MEMBER AND FORMER MEMBER OF THE
10 AUTHORITY ARE TERMINATED, EXCEPT FOR ANY ENVIRONMENTAL LIABILI-
11 TIES SUBSEQUENTLY ATTRIBUTED TO THE AUTHORITY TO THE EXTENT THAT
12 THE ENVIRONMENTAL LIABILITIES RESULT FROM THE AUTHORITY'S DIS-
13 POSAL OF THE MEMBER'S OR FORMER MEMBER'S FAIR SHARE OF MUNICIPAL
14 SOLID WASTE, RECYCLABLE MATERIALS, OR YARD WASTE.

15 (10) SUBSECTIONS (6) TO (9) DO NOT PREVENT THE INCORPORATION
16 OF A NEW AUTHORITY BY SOME OR ALL OF THE FORMER MEMBERS OF AN
17 AUTHORITY DISSOLVED UNDER SUBSECTIONS (6) TO (9).

18 (11) IF, AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
19 ADDED THIS SECTION, A QUALIFIED AUTHORITY IS INCORPORATED OR
20 AMENDS ITS ARTICLES OF INCORPORATION, THE QUALIFIED AUTHORITY
21 SHALL INCLUDE IN ITS ARTICLES THE PROVISIONS OF SUBSECTIONS (3)
22 TO (9).

23 (12) AS USED IN THIS ACT:

24 (A) "APPRAISER" MEANS AN INDIVIDUAL LICENSED UNDER
25 ARTICLE 26 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2601 TO
26 339.2637.

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1 (B) "AUTHORITY" MEANS AN AUTHORITY INCORPORATED UNDER THIS
2 ACT.

3 (C) "CORRECTIVE ACTION" MEANS THAT TERM AS DEFINED IN SEC-
4 TION 11502 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
5 ACT, 1994 PA 451, MCL 324.11502.

6 (D) "ENVIRONMENTAL LIABILITIES" MEANS THE COSTS OF LANDFILL
7 CLOSURE AND POSTCLOSURE OBLIGATIONS, THE COSTS OF CORRECTIVE
8 ACTION, RESPONSE ACTIVITY COSTS, AND FINES, PENALTIES, OR DAMAGES
9 REQUIRED OR ASSESSED BY THE STATE UNDER THE NATURAL RESOURCES AND
10 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.101 TO
11 324.90106.

12 (E) "EQUITY OF THE AUTHORITY" MEANS THE TOTAL FUND EQUITY OF
13 THE AUTHORITY AS SET FORTH IN ITS MOST RECENT AUDITED ANNUAL
14 FINANCIAL STATEMENTS EXCEPT THAT LIABILITIES SHALL BE REDUCED BY
15 ANY ESTIMATED LIABILITIES THAT WERE INCLUDED IN DETERMINING TOTAL
16 FUND EQUITY.

17 (F) "FORMER MEMBER" MEANS A MEMBER THAT HAS WITHDRAWN FROM A
18 QUALIFIED AUTHORITY UNDER THIS SECTION OR A PRIOR MEMBER OF A
19 QUALIFIED AUTHORITY THAT HAS BEEN DISSOLVED UNDER THIS SECTION.

20 (G) "IMPAIRMENT", IN REFERENCE TO AN AUTHORITY CONTRACT,
21 MEANS A MATERIAL DEFAULT IN THE CONTRACT THAT CANNOT BE CURED BY
22 THE PAYMENT OF MONETARY DAMAGES.

23 (H) "MEMBER" MEANS A MUNICIPALITY THAT INCORPORATED A QUALI-
24 FIED AUTHORITY UNDER SECTION 1 OR THAT BECAME PART OF A QUALIFIED
25 AUTHORITY UNDER SECTION 7 AND THAT HAS NOT WITHDRAWN FROM THE
26 AUTHORITY UNDER THIS SECTION.

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1 (I) "MEMBER'S FAIR SHARE" MEANS THE PERCENTAGE OF THE TOTAL
2 AMOUNT OF MUNICIPAL SOLID WASTE, RECYCLABLE MATERIALS, AND YARD
3 WASTE DISPOSED OF BY THE AUTHORITY SINCE ITS FOUNDING UP TO AND
4 INCLUDING THE LAST FULL CALENDAR YEAR, THAT WAS GENERATED WITHIN
5 THE MEMBER'S TERRITORY, AS DETERMINED, IN THE EVENT OF A DISPUTE,
6 BY INDEPENDENT ARBITRATION.

7 (J) "PERCENTAGE OF RECENT WASTE DELIVERY" MEANS THE AMOUNT
8 OF MUNICIPAL SOLID WASTE, RECYCLABLE MATERIALS, AND YARD WASTE
9 GENERATED WITHIN A PARTICULAR MEMBER'S TERRITORY AND DISPOSED OF
10 BY THE AUTHORITY DURING THE LATEST FULL CALENDAR YEAR FOR WHICH
11 THE AUTHORITY DISPOSED OF SUCH MATERIALS OR WASTE GENERATED
12 WITHIN THE TERRITORY OF THAT MEMBER, DIVIDED BY THE SUM OF SUCH
13 AMOUNTS FOR ALL MEMBERS, AS DETERMINED, IN THE EVENT OF A DIS-
14 PUTE, BY INDEPENDENT ARBITRATION.

15 (K) "QUALIFIED AUTHORITY" MEANS AN AUTHORITY THAT AS OF THE
16 EFFECTIVE DATE OF THIS SECTION OR THEREAFTER IS COMPOSED OF 10 OR
17 MORE MEMBERS AND HAS A POPULATION RESIDING WITHIN ITS TERRITORY
18 OF 250,000 OR MORE.

19 (l) "RESPONSE ACTIVITY COSTS" MEANS THAT TERM AS DEFINED IN
20 SECTION 20101 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTEC-
21 TION ACT, 1994 PA 451, MCL 324.20101.

June 10, 2002

To: Honorable Mayor and City Council

From: John Szerlag, City Manager
Gary A. Shripka, Assistant City Manager-Services
John Lamerato, Assistant City Manager-Finance/Administration
William R. Need, Public Works Director

Subject: Impact of Senate Bill #3 on Troy's Waste Hauling, Disposal, Composting, and Recycling Programs

As requested, staff has put together the following report in an effort to forecast the possible effects on this community should SOCRRA no longer continue to exist in it's present configuration.

We would expect that any change in SOCRRA would impact Troy in three (3) specific areas: a) Level of Service, b) Financial Implications, and c) Legal Ramifications.

Level of Customer Service

During the early part of this year, we evaluated services provided by SOCRRA, and how this impacted our entering into a new five (5) year contract with a refuse hauler. The following delineates this impact, as determined by the three private sector refuse contractors that responded to Troy's request for proposals.

- If the City is to continue to honor its contract with Tringali Sanitation, a viable relationship with SOCRRA must be maintained. As part of the RFP process, Tringali was given the opportunity to provide a quotation for direct hauling to a landfill. Mr. Tringali felt his firm would be unable to gain a five-year commitment from the owners of the landfill, which would allow him to dump Troy's refuse at their facility.
- One of the primary reasons that Tringali's proposal was accepted, was because of their exceptionally high level of customer service.
- Only Republic Services provided a quotation that quantified the additional costs that the City would incur, should Troy sever its' relationship with SOCRRA. We were concerned about Republic's proposal because it stipulated that they would only pick-up a maximum of $\frac{3}{4}$'s of a cubic yard of refuse per week from each household. Our current ordinance allows for the disposal of two-cubic yards weekly. This would necessitate amending the refuse ordinance to reflect this change, and would also be a significant reduction of service for our citizens. Republic was rated well below Tringali because of their approach to customer service. Not only was this firm scored poorly in the customer service area, there were a number of services they would not have provided such as:

- 1) Household Hazardous Waste Disposal
- 2) Free Compost for Residents
- 3) Electronics Recycling
- 4) Community Education Programs

Household Hazardous Waste Disposal

Over the past year, Troy residents made almost 1,400 appointments for the disposal of household hazardous waste. The cost of this service is \$14.30 per appointment, for a grand total of just under \$20,000.00. Other communities have handled the problem of hazardous waste by offering their residents the opportunity to dispose of these items during a one (1) day per year event. These programs are very expensive. Last year, the five (5) Grosse Pointe communities combined their resources and offered their residents a single day drop off disposal program. The cost of this single day program was just over \$45,000.00. The population of these five (5) communities is just over 50,000 people. The question is, what happens if you're out of town that particular day, or for some other reason, unable to participate in the program? The answer is, you either hold onto your hazardous waste until next years' program, pay a private concern to dispose of the items, or they are disposed improperly, which poses a potential hazard for other people and for the natural environment. None of these solutions are convenient, cost effective, or desirable.

Free Compost

Annually, our residents haul over 2,000 cubic yards of garden compost from our Recycling Center, in buckets, trashcans, trailers, and by the pickup truck load. We conservatively estimate the value of this product to be about \$6.00 per yard for a total of \$12,000.00 if it was to be purchased from a for-profit concern.

Electronics Recycling

The electronics-recycling program is relatively new, beginning in April of 2001. In the past twelve (12) months, many Troy residents have taken advantage of the program and have disposed of just under five (5) tons of old TV's, computers, VCR's, microwave ovens and various other electronic necessities.

Community Education

The popularity of the community education programs are more difficult to gauge, but we do know that residents are actively involved in a number of SOCRRA's programs such as Master Recycler class, Healthy Lawn and Garden programs, and the Master Composter training sessions. A large number of Troy school groups and other civic organizations tour the SOCRRA's Material Recovery Facility (MRF) yearly. The authority also provides the City with a large amount of educational pamphlets, bulletins, and other printed materials, covering a wide range of programs (samples available upon request). The authority is actively involved in various community events, such as Troy Daze, local school Earth Day celebrations, America Recycles Day celebrations, and career day programs.

Financial Implications

Should SOCRRA be dissolved, the most obvious cost to the community is the additional cost of hauling our waste to a landfill site, and the associated disposal costs, but there several others that need to be considered.

- 1) Refuse Hauling and Landfill Disposal
- 2) Loss of Recycling Revenue
- 3) Reduced Tonnage Surcharge
- 4) Dissolution Buyout Clause
- 5) Increased Cost For the Disposal of Hazardous Household Waste
- 6) Value of Compost

Refuse Hauling and Landfill Disposal Costs

As indicated previously, Republic Services was the only company that provided information regarding Troy's costs if SOCRRA was no longer involved in hauling Troy's solid municipal waste to a landfill. The gross increase of our annual landfilling costs is \$3,350,000.00 per year. In an effort to give a more accurate picture we have deducted the charge assessed by SOCRRA in 2000-01 for the same services or \$1,521,000.00 (minus recycling credits) which when subtracted from the gross figure provides us with a net increase of \$1,829,000.00. Realizing that SOCRRA has entered into a new contract with Waste Management and using the same tonnages as were delivered to SOCRRA last year and applying the new rates a more accurate net increase is \$2,345,200.00. Over the life of five (5) years of a contract these increases would total approximately or \$11,726,000.00. It would be necessary to increase the current millage rate by an additional 0.5130 mills to cover these higher costs.

Loss of Recycling Revenue

Troy is paid approximately \$114,000.00 annually by SOCRRA, for our portion of the profit generated from the sale of recyclables. Extrapolated over the life of the five (5) year contract, this amounts to another \$570,000.00 in revenue, which helps defray the cost of our waste disposal program. In order to offset this loss of revenue, an increased millage assessment of 0.0249 would be necessary.

Reduced Tonnage Surcharge

As part of SOCRRA's new contract with Waste Management, a penalty has been established that would be assessed by SOCRRA against any community leaving the organization. The penalty would compensate the vendor for the reduction in refuse tonnage they would be processing. Should Troy leave SOCRRA, the authority would assess a surcharge of 14.5%. If Troy were to leave SOCRRA now, we would be required to pay SOCRRA \$836,200.00 over the five-year life of the contract. Should the members of SOCRRA decide to extend this contract by an additional five (5) years, Troy would be required to remit an additional \$968,745.00. Just to cover the increased cost for the first five (5) year period, the millage would have to be raised by another 0.0366 mills.

Dissolution Buyout Clause

Under the terms of the new agreement, the authority is responsible for compensating Waste Management for their investment in new equipment, supplies, and personnel necessary to perform their duties under the terms of their contract. As of this date, there has been no firm policy adopted on how this fee would be assessed. It is expected that each municipality's percentage of responsibility would be based on the percentage of waste tonnage each community processes through the authority. At the present time, Troy is responsible for approximately 27 percent (27%) of the solid municipal waste processed by SOCRRA, therefore, that same figure most likely would be employed to determine Troy's financial responsibilities under this clause. Using the 27 percent factor, Troy's portion of these costs would total approximately \$70,200.00 annually. An increase of 0.0154 mills would be needed to offset this cost.

Increased Costs for Hazardous Household Waste Disposal

Previously described under the "Level of Service" component of this report, should a program similar to SOCRRA's be unavailable to us, we would most likely employ a one-day hazardous materials drop-off program. We could expect that a program of this type would cost the city a minimum of \$25,000.00 per event annually, for a five (5) year total of \$125,000.00. To offset the increased cost of this program, the millage rate will have to be raised by 0.0055 mills.

Free Compost

While this service is definitely not a necessity, it is a benefit that many of our citizens enjoy and have come to expect. Troy residents use over 2,000 cubic yards of compost annually, with a fair market value of \$12,000.00. Should this product no longer be available, this would amount to a net loss to our residents of \$60,000.00 over the next five (5) years. To implement this program at its current level, an increase in the millage rate of 0.0026 mills would be necessary.

All of these factors together total \$2,733,640.00 annually, or \$13,668,200.00 over the five (5) years of the contract, making it necessary to add 0.5979 to the current levy. Should it be necessary to terminate our current contract with Tringali, another contractor would have to be hired to provide these services. While these figures are substantial, they do not include other factors that are not as easily quantifiable, such as setting the Tringali contract and other potential legal costs. Should it be necessary to terminate our contract with Tringali Sanitation, potential increases could total an additional \$2,383,999.00 annually or another 0.5215 mills. The combination of both of these extra costs would result in an increase of the current millage rate of 1.1195 mills annually.

Legal Ramifications

This aspect of the community's potential legal liabilities will be discussed under a separate report being prepared by the City Attorney.

SUBSTITUTE FOR
SENATE BILL NO. 3

A bill to amend 1947 PA 179, entitled

"An act to provide for the incorporation of certain municipal authorities for the collection or disposal, or both, of garbage or rubbish, or both, and for the operation of a dog pound; and to prescribe the powers, rights and duties thereof,"

(MCL 123.301 to 123.310) by adding section 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 SEC. 11. (1) AFTER THE EFFECTIVE DATE OF THE 2001 AMENDA-
2 TORY ACT THAT ADDED THIS SECTION, A QUALIFIED AUTHORITY SHALL NOT
3 ENTER INTO A CONTRACT UNDER SECTION 6 WITH A TERMINATION DATE
4 AFTER THE TERMINATION DATE OF THE AUTHORITY'S MOST RECENTLY
5 APPROVED CONTRACT UNDER SECTION 5(1).
6 (2) WITHIN 90 DAYS AFTER A QUALIFIED AUTHORITY DECIDES TO
7 SELL OR TRANSFER REAL PROPERTY LOCATED WITHIN THE TERRITORY OF A
8 MEMBER OR FORMER MEMBER, THE MEMBER OR FORMER MEMBER MAY EXERCISE
9 THE RIGHT OF FIRST REFUSAL TO PURCHASE THE REAL PROPERTY AT A

*Can't
enter
into
subsequent
contracts
if SOCRRA
continues*

February 6, 2001

Board of Trustees
Southeastern Oakland County Resource Recovery Authority

Subject: Senate Bill No. 3

Board Members:

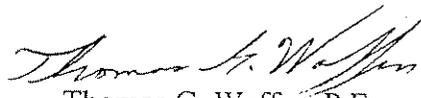
Attached is the January Board Meeting Report on the proposed legislation to amend 1947 PA 179. The report includes Dykema Gossett's draft provisions for a withdrawal of an Authority member and for the dissolution of an authority.

The introduction of Senate Bill No. 3 by Senator Johnson, which is identical to SB 1415 from last session, requires that the Authority give guidance to Dykema Gossett in their efforts to interact on the Authority's behalf.

Prompt action on this matter is essential so that these provisions can be discussed while the Bill is in committee and a substitute bill can be prepared that will serve the Authority's interests and also answer Senator Johnson's expressed defects in the original Act.

The January report also includes two proposed new Articles to be added to the Authority's Articles of Incorporation that parallel the Dykema Gossett proposed changes to Act 179. The changing of our Articles of Incorporation will require the approval of each member municipality.

Respectfully submitted,


Thomas G. Waffin, P.E.
General Manager

TGW/ksh

Suggested Resolution: "That the Board of Trustees approve a resolution that provides Dykema Gossett with direction in representing the Authority before the Senate Committee on Natural Resources and Environmental Affairs in regard to Senate Bill No. 3."

Handwritten notes:
1. 11 - 2/11/01

January 4, 2001

Board of Trustees
Southeastern Oakland County Resource Recovery Authority

Subject: Proposed Legislation to Amend 1947 PA 179

Board Members:

Attached for discussion are draft provisions prepared by Dykema Gossett that would amend 1947 PA 179 by incorporating a withdrawal provision and a dissolution provision, and two proposed articles to be added to the Authority's Articles of Incorporation, prepared by Sugameli and Olson.

The first Article describes the procedure for a member to withdraw from the Authority. The second Article provides for the dissolution of the Authority. Both Articles require the approval of 2/3rds of the members of the Authority and stipulate that all contracts between members and the Authority shall expire prior to being applicable.

Rehmann Robson, P.C. has prepared an analysis of the liabilities (spread sheet attached) that a member would incur if they withdrew from the Authority.

It is assumed that any member who withdraws from the Authority would forfeit all rights to any of the Authority's assets and would be responsible for a proportionate share of all "known", "unbooked", "unknown" and "but for" liabilities as identified by the Auditors. Using this assumption, and based on the audited balance sheet for the year ended 6-30-2000 (attached), the withdrawing member would be responsible for its proportionate share of the known liabilities of \$2,675,648 plus its proportionate share of the "unbooked", "unknown" and "but for" liabilities as identified by the Auditors. The Authority would retain all the assets totaling \$13,201,708.

The total estimated first year cost subject to revision for currently unknown costs is \$8,962,999. The withdrawing member would be responsible based on the percentage of lifetime tonnage delivered to the Authority. See attached member municipality tonnage Y/E 6-30-56 to 6-30-00.

Respectfully submitted,



Thomas G. Waffin, P.E.
General Manager

TGW/ksh

D
R
A
DRAFT BILL No. _____

A bill to amend 1947 PA 179, entitled

F "An act to provide for the incorporation of certain municipal authorities for the collection or disposal, or both, of garbage or rubbish, or both, and for the operation of a dog pound; and to prescribe the powers, rights and duties thereof,"

T (MCL 123.301 to 123.310) by adding section 2B.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2B. (1) THE ARTICLES OF INCORPORATION OF AN AUTHORITY
2 CREATED UNDER THIS ACT SHALL INCLUDE A PROVISION ESTABLISHING A
3 PROCESS FOR THE ORDERLY WITHDRAWAL OF A MEMBER OF THE AUTHORITY.
4 THE WITHDRAWAL PROVISION SHALL PROVIDE THAT A MEMBER OF AN
5 AUTHORITY MAY WITHDRAW FROM THE AUTHORITY AND TERMINATE ITS
6 PARTICIPATION IN THE AUTHORITY IF ALL OF THE FOLLOWING APPLY:

7 (A) THE LEGISLATIVE BODY OF THE WITHDRAWING MEMBER ADOPTS A
8 RESOLUTION INDICATING THAT THE WITHDRAWING MEMBER SEEKS TO

1 WITHDRAW FROM THE AUTHORITY AND TRANSMITS A COPY OF THE
2 RESOLUTION TO THE AUTHORITY.

3 (B) TWO-THIRDS OF THE MEMBERS OF THE AUTHORITY VOTE TO
4 APPROVE THE WITHDRAWAL OF THE WITHDRAWING MEMBER.

5 (C) IF TWO-THIRDS OF THE MEMBERS OF THE AUTHORITY APPROVE
6 THE WITHDRAWAL OF THE WITHDRAWING MEMBER THE AUTHORITY SHALL
7 PREPARE OR CAUSE TO BE PREPARED AN ACCOUNTING TO DETERMINE THE
8 WITHDRAWING MEMBER'S PROPORTIONATE SHARE OF THE CURRENT AND
9 CONTINGENT LIABILITIES OF THE AUTHORITY, IF ANY. FOLLOWING THE
10 ACCOUNTING, THE AUTHORITY AND THE WITHDRAWING MEMBER SHALL ENTER
11 INTO A WITHDRAWAL AGREEMENT WHICH SHALL INCLUDE BUT NOT BE
12 LIMITED TO ALL OF THE FOLLOWING:

13 (i) A PLAN FOR PAYMENT TO THE AUTHORITY OR ITS CREDITORS OF
14 ALL OBLIGATIONS OF THE WITHDRAWING MEMBER AND THE WITHDRAWING
15 MEMBER'S PROPORTIONATE SHARE, IF ANY, OF THE OBLIGATIONS OF THE
16 AUTHORITY, INCLUDING BUT NOT LIMITED TO ANY CURRENT LIABILITIES,
17 CONTINGENT LIABILITIES, OUTSTANDING JUDGMENTS, OR JUDGMENTS THAT
18 MAY RESULT FROM PENDING OR FUTURE LITIGATION TO WHICH THE
19 AUTHORITY OR ITS MEMBERS MAY BECOME A PARTY.

20 (ii) A PROCESS FOR THE RESOLUTION OF ANY DISPUTE THAT MAY
21 ARISE OVER THE IMPLEMENTATION OF THE WITHDRAWAL AGREEMENT AND THE
22 PROCEDURE THAT A PARTY TO ANY SUCH DISPUTE MAY UTILIZE.

23 (2) THE ARTICLES OF INCORPORATION OF THE AUTHORITY SHALL
24 ALSO PROVIDE THAT IF UNDER ANY CIRCUMSTANCES THE WITHDRAWAL OF A

1 MEMBER WOULD IMPAIR THE OBLIGATION OF ANY CONTRACT BETWEEN THE
 2 AUTHORITY AND A CREDITOR THEN SUCH CREDITOR MUST CONSENT IN
 3 WRITING TO THE WITHDRAWAL. WITHOUT SUCH CONSENT OR ALTERNATIVE
 4 AGREEMENT BETWEEN THE AUTHORITY, THE WITHDRAWING MEMBER, AND THE
 5 CREDITOR, THE WITHDRAWING MEMBER MAY NOT WITHDRAW FROM THE
 6 AUTHORITY.

7
 8 (3) FOLLOWING THE WITHDRAWAL OF ANY MEMBER, THE ARTICLES OF
 9 INCORPORATION SHALL BE AMENDED TO REFLECT THE WITHDRAWAL OF THE
 10 WITHDRAWING MEMBER FROM THE AUTHORITY.

11 (4) AS USED IN THIS SECTION:

12 (A) "MEMBER" MEANS A MUNICIPALITY THAT INCORPORATED THE
 13 AUTHORITY UNDER SECTION 1 OR THAT BECAME PART OF THE AUTHORITY
 14 UNDER SECTION 7 AND WHOSE PARTICIPATION IN THE AUTHORITY HAS NOT
 15 BEEN TERMINATED PURSUANT TO THIS ACT OR THE ARTICLES OF
 16 INCORPORATION OF THE AUTHORITY.

17 (B) "WITHDRAWAL AGREEMENT" MEANS AN AGREEMENT BETWEEN THE
 18 AUTHORITY AND A WITHDRAWING MEMBER ENTERED INTO PURSUANT TO
 19 SUBSECTION (1).

20 (C) "WITHDRAWING MEMBER" MEANS A MEMBER SEEKING WITHDRAWAL
 21 UNDER THE ARTICLES OF INCORPORATION OF AN AUTHORITY AS PROVIDED
 22 IN THIS SECTION.

23 Enacting section 1. Section 2B as added by this amendatory
 act is effective December 31, 2001.