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Client Alert: Securing Up-Front Funds for Brownfield Redevelopment in Changing Times

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The Problem

The redevelopment of environmentally contaminated brownfield sites remains a key component to economic development activities throughout Ohio. Remediation, however, can be expensive. The cost associated with brownfield redevelopment is often difficult, if not impossible, to overcome, especially for the most severely contaminated sites. In addition, the state program most often used to finance redevelopment of brownfields, the Clean Ohio Fund, is no longer accepting applications.

The Solution

Developers and local communities can take advantage of other existing state and local economic development programs to help finance brownfield redevelopment. Those programs can provide funding for the acquisition, demolition and remediation of brownfields and could include some combination of the following:

- **Tax Increment Financing ("TIF")** – TIF is a tool that captures increases in the assessed value of real property and diverts the payments made on those increases into a special fund to be used for public infrastructure improvements. These payments, called "service payments," are in the same amount, and made at the same time and in the same manner as the real property taxes otherwise due on the increase in assessed value. In other words, the establishment of a TIF does not result in an increase in taxes, a decrease in taxes or a decrease in overall payments by the property owner. TIF service payments can be used to reimburse end users or communities for the required infrastructure improvements, to pay debt service on bonds issued by local authorities or loans provided by others to fund those infrastructure improvements, or to build a fund for future infrastructure improvements. Significantly, the statutory definition of "public infrastructure improvement" expressly includes environmental remediation.

- **Joint Economic Development Districts ("JEDDs") and Joint Economic Development Zones ("JEDZs")** – In general, JEDDs and JEDZs are special purpose entities that are created by a contract among one or more municipal corporations and one or more townships and that can impose a local income tax in a specific portion of a township. The proceeds of that income tax can be used for a number of purposes, including assisting with brownfield redevelopment efforts and assisting with infrastructure and other improvements in a contaminated area.
- **Low-Interest State Loans** – End users of sites that are the subject of remediation activities can benefit from low-interest state loans designed to finance infrastructure and other project costs. These loans, such as the 166 Direct Loan program and the Ohio Enterprise Bond Fund program, are typically structured as "take out" financing, typically carry below market interest rates and typically are expressly authorized to be used for "voluntary actions." These loan programs could serve as an important financing tool for end users of brownfield sites. In addition, communities and developers can utilize low-interest state loans that are specifically targeted to brownfield remediation, and TIF service payments can be used to help pay debt service on such loans.

These are just a few examples of the state and local incentives programs that could be used creatively to help finance brownfield redevelopment projects. Vorys is well-equipped to assist with those projects. Our economic development incentives experts have structured and led incentives deals for some of the largest development projects in Ohio in the past 20 years. In addition, our environmental law experts have counseled clients on remediation and brownfield redevelopment projects throughout Ohio. If you feel that your company or community could benefit from the use of these or other incentives for brownfield redevelopment, please contact us.