

BROWNFIELD REDEVELOPMENT AUTHORITY
REIMBURSEMENT AGREEMENT
HAMLIN/ADAMS PROPERTIES LLC
ROCHESTER HILLS, MICHIGAN

THIS BROWNFIELD REDEVELOPMENT AUTHORITY DEVELOPMENT AGREEMENT (“Agreement”) is made this _____ day of _____, 2006 (“Effective Date”) by and between the City of Rochester Hills Brownfield Redevelopment Authority (“BRDA”), the City of Rochester Hills, Michigan (“City”) and Hamlin/Adams Properties, LLC. of 37020 Garfield, Suite T1, Clinton Township, Michigan 48036 (“Developer”).

RECITALS

This Agreement is made under the following circumstances:

- A. Developer owns the property more fully described on Exhibit A attached hereto (the “Property”).

- B. Developer proposes to construct a mixed use commercial development on the Property (the “Development”).

- C. It has been determined that the Property is a “Facility” as defined by MCL 324.20101 et seq. (“Part 201”).

- D. There are costs and responsibilities which Developer will incur as a result of the Property being a Facility consisting of certain environmental activities (“Environmental Activities”) required to comply with Developer’s “due care obligation” under Part 201 and pursuant to the Consent Judgment entered into by the City and the Developer in Oakland County Circuit Court Case No.: 04-060730-CZ (“Consent Judgment”) (“Environmental Costs”). BRDA

has incurred and will continue to incur certain costs in connection with the BRDA Plan (“Administrative Costs”). The Environmental Costs and the Administrative Costs are collectively defined as “Costs”. The types of Environmental Activities and the Costs are more fully described in the BRDA Plan adopted on _____, 2006 by the BRDA and approved by the City on _____, pursuant to Section 14 of the Brownfield Redevelopment Financing Act PA 145 as amended (the “BRFA”), (the “Plan”) attached as Exhibit B to the Agreement. The Costs and activities identified in the BRDA Plan are estimates, the actual Costs may vary.

E. The proposed Development is anticipated to create jobs in the City, remove environmental risks to the Property and entire area as well as significantly increase the tax revenues generated for the City.

F. The City has agreed to assist Developer with the payment of the Costs.

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. Compliance with the Plan. Developer shall cooperate with, assist and comply with the terms of the Plan. Developer’s cooperation shall include, but not be limited to, providing any and all documentation, and executing any documentation, reasonably requested by the City or the BRDA to evidence compliance with or payments under the Plan.

2. Payment of Costs by BRDA. Not more than monthly after commencement of the Environmental Activities, Developer shall submit to the BRDA all invoices for Costs for which Developer seeks repayment under the Plan. The BRDA shall pay to Developer an amount not to exceed the amount of all eligible costs under the Plan (“Eligible Costs”) and shall pay the then

available portion of the Eligible Costs within thirty (30) days after Developer or the then existing taxpayers for the Property pays their property taxes.

- 2.1 The Eligible Costs shall not be paid to Developer unless they are:
 - (a) Eligible for payment pursuant to the BRFA.
 - (b) Approved by the BRDA.
 - (c) Incurred for activities described by the Plan or any subsequent Plan amendments.
 - (d) Actually paid by Developer.
 - (e) There has been no default by Developer under the Development Agreement or the Consent Judgment at the time the request for payment is made.
- 2.2 The available Eligible Costs paid to Developer shall be, in any year, the amount allowed to be paid under the BRFA and the Plan, as such amount may vary from year to year, and less the amount required to be paid to the BRDA for costs incurred by the BRDA under the Plan or the costs allowed to be retained by the taxing jurisdictions pursuant to the Consent Judgment, so long as they are permissible under the BRFA.
- 2.3 The Eligible Costs shall also include interest accrued on the balance of the Eligible Costs which have not been paid pursuant to this Agreement at Comerica's then "prime rate plus 1%" computed semiannually as of the

last date that the summer and winter taxes are due without penalty. Eligible Costs shall accumulate and carryover to the following year to the extent that they have not been paid in any year.

- 2.4 The obligations of the BRDA pursuant to this Agreement shall terminate on the earlier to occur of: (a) the date on which the City of Rochester Hills is no longer authorized to collect taxes calculated on the Captured Taxable Value; (b) thirty (30) years after the Effective Date; (c) the date on which there remain no outstanding Net Costs or (d) the occurrence of an Event of Default, that after the Arbitration or in Oakland County Circuit Court in the event that said alleged Default relates to the terms and conditions of the Consent Judgment provisions of subparagraph 6.9 of this Agreement have been completed, determined to be an actual Default by Developer.
3. Representations, warranties and covenants of BRDA. The BRDA represents, warrants and covenants to Developer and that on the Effective Date, and shall be deemed to represent, warrant and covenant on each and every day during the term of this Agreement, as follows:

3.1 The BRDA is duly organized, validly existing and in good standing under the laws of the State of Michigan and the BRFA, has all corporate power and authority to enter into this Agreement and is duly qualified and in good standing in the State of Michigan.

3.2 The BRDA is not a party to, subject to or bound by any agreement or other obligation, or any judgment, order, writ, injunction or decree of any court

or governmental authority, which could present or materially impair the carrying out of this Agreement. The making and performance of this Agreement, and transactions contemplated herein, by the BRDA will not violate any provision of law or result in the breach of, or constitute a default under, any lease, indenture, bank loan, credit agreement or other material agreement or instrument to which the BRDA is a party or by which its authority or property may be bound or affected.

4. Representations, Warranties and Covenants of Developer. Developer represents, warrants and covenants to the BRDA on the Effective Date, and shall be deemed to represent, warrant on each and every day during the term of this Agreement, as follows:

- 4.1 Prior to submitting any invoices pursuant to Section 2 hereof, Developer shall have: (a) completed the Environmental Activities outlined in the request for reimbursement.
- 4.2 Developer shall undertake and complete all Environmental Activities at the Property to achieve compliance with the Plan and the Consent Judgment.
- 4.3 Developer is validly existing and in good standing under the laws of the State in which they are domiciled, have all corporate power and authority to enter into this Agreement and is duly qualified and in good standing in the State of Michigan.

4.4 Developer is not a party to, subject to or bound by any agreement or other obligation, or any judgment, order, writ, injunction or decree of any court or governmental authority, which could prevent or materially impair the carrying out of this Agreement. The making and performance of this Agreement, and transactions contemplated herein, by Developer will not violate any provision of law or result in the breach of, or constitute a default under, any lease, indenture, bank loan, credit agreement or other material agreement or instrument to which Developer is a party or by which its property may be bound or affected.

5. Default by Developer. The occurrence of any of the following events shall be considered an “Event of Default”:

5.1 The material breach, by Developer of any representation, warranty or covenant of this Agreement.

5.2 The failure of Developer, to comply with this Agreement.

5.3 The failure of Developer to comply with the terms of the Consent Judgment.

5.4 The failure of Developer to make any property tax payment to the County of Oakland or to the City of Rochester Hills in full, for any portion of the Development for which it has the obligation to make such payments.

6. Miscellaneous.

- 6.1 The City and the BRDA shall cooperate with Developer in seeking Single Business Tax Credits for the Development.

- 6.2 Choice of Law. This Agreement is governed by and must be construed in accordance with the law of the State of Michigan as if fully performed therein and without reference to its conflict of laws principles.

- 6.3 Notices. Any notices or other communications required or permitted under this Agreement shall be sufficiently given if in writing and (i) hand-delivered, including delivery by courier service, (ii) sent by overnight mail by a nationally recognized overnight mail service, or (iii) sent by certified mail, return receipt requested, post prepaid addressed to the recipient at the address stated below, or to such other address as the party concerned may substitute by written notice to the other:

It to BRDA: The Rochester Hills Brownfield Redevelopment Authority
1000 Rochester Hills Dr.
Rochester Hills, MI 48309
Attention: Derek Delacourt
 Planner

With a copy to: John D. Staran, Esq.
Beier Howelett, P.C.
200 East Long Lake Road, Suite 110
Bloomfield Hills, MI 48304

If to Developer: Hamlin/Rochester Properties, LLC
c/o Paul Aragona
37020 Garfield
Suite T1
Clinton Township, MI 48036

With Copies to: Neil S. Silver, Esq.
Strobl & Sharp, P.C.
300 East Long Lake Road
Suite 200
Bloomfield Hills, MI 48304

All notices forwarded by overnight mail are deemed received on the date the overnight service actually delivers the notice. All notices hand delivered shall be deemed received on the day of delivery. All notices forwarded by mail shall be deemed received on the date two (2) days (excluding Sundays and legal holidays when the U.S. mail is not delivered) immediately following date of deposit in the U.S. mail; provided, however, the return receipt indicating the date upon which the notice is received shall be prima facie evidence that such notice was received on the date of the return receipt. Addresses may be changed by giving notice of such change in the manner provided herein. Unless and until such written notice is received, the last address given shall be deemed to continue in effect for all purposes.

6.4 Entire Agreement and Amendments. This Agreement, including the Exhibits referred to herein, contains the entire understanding of the parties hereto with respect to the subject matter contained herein and may only be amended or terminated by a written instrument executed by all parties. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth or provided for herein.

6.5 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or

the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If the final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the court making the determination of invalidity or unenforceability shall have the power to reduce the scope, duration or area of the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified after the expiration of the time within which the judgment may be appealed.

6.6 Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any party. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

6.7 Captions. The captions to the Sections and subsections contained in this Agreement are for reference only, do not form a substantive part of this Agreement and do not restrict or enlarge substantive portions of this Agreement.

- 6.8 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 6.9 Parties in Interest. Other than provided for in this Agreement, this Agreement shall not confer any rights or remedies upon any person other than the parties hereto and their respective successors and permitted assigns. This Agreement shall bind and shall inure to the benefit of the parties hereto, their respective successors and assigns.
- 6.10 Arbitration. In the event a dispute shall arise as to the parties' respective rights, duties and obligations under this Agreement, or in the event of a claim of breach of the Agreement or Event of Default by any party, such disputes shall be exclusively resolved pursuant to binding and final arbitration under the Commercial Rules of the American Arbitration Association (the "Association"). The arbitration shall be conducted in Southfield, Michigan. This provision shall not be construed so as to prohibit any party from seeking preliminary or permanent injunctive relief in any court of competent jurisdiction or from enforcing or seeking to enforce the terms of the Consent Judgment. The decision of the arbitrators shall be final and shall be entitled to enforcement pursuant to MCL 600.5001 et seq. in any court of competent jurisdiction. The fees of the Association and any arbitrator shall be borne equally by the parties. Each party shall pay their own attorney fees and costs in connection with any arbitration. However, the prevailing party shall be entitled to the recovery

of the reasonable costs, including attorney fees incurred as a result of the action.

- 6.11 Survival. Except as otherwise provided in this Agreement, all representations, warranties, covenants and agreements of the parties contained or made pursuant to this Agreement shall survive the execution of this Agreement.
- 6.12 Recitals. The recitals set forth above are incorporated by reference into the Agreement as if fully set forth therein.
- 6.13 Site Access. During the Term of this Agreement, the BRDA, its employees, agents, contractors and experts may have access to the Development after normal business hours and upon seven (7) days prior written notice to Developer for the purpose of analyzing whether Developer has complied with the BRDA Plan or this Agreement provided, however, that such access shall occur in a manner so as not to unreasonably interfere with the operations of Developer.
- 6.14 Conflict with Brownfield Redevelopment Financing Act. If a conflict arises between this Agreement and the Brownfield Redevelopment Financing Act, the Brownfield Redevelopment and Financing Act shall prevail.
- 6.15 Local Ordinances. Nothing in this Agreement shall abrogate the effect of local ordinances.

The parties have executed this Agreement on the Effective Date.

CITY OF ROCHESTER HILLS BROWNFIELD
REDEVELOPMENT AUTHORITY an authority
established by the City of Rochester Hills

By: _____

Its: _____

and

By: _____

Its: _____

CITY OF ROCHESTER HILLS

By: _____

Its: _____

and

By: _____

Its: _____

HAMLIN/ADAMS PROPERTIES, LLC

By: _____

Its: _____

and

By: _____

Its: _____