

**ADDENDUM “B”  
LEE OGLE ENTERPRISE ZONE  
INTERGOVERNMENTAL AGREEMENT**

This Agreement (this “Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the City of Dixon, the County of Lee, the City of Rochelle and the County of Ogle, hereafter collectively referred to as “the Designating Units of Government”.

**WHEREAS**, the Designating Units of Government have adopted Ordinance(s) establishing an Enterprise Zone, hereinafter collectively referred to as “the Ordinance,” subject to certification by the Department of Commerce and Economic Opportunity, hereinafter referred to as “the Department,” including incorporated portions of the City of Dixon, unincorporated portions of the County of Lee, incorporated portions of the City of Rochelle and unincorporated portions of the County of Ogle; and

**WHEREAS**, the Governor signed Senate Bill 3616, as amended, into law on August 7, 2012, thereby amending the “Illinois Enterprise Zone Act” (20 ILCS 655/1 et. seq.) under the provisions of Public Act 97-0905 outlining new application procedures and related changes to the Illinois Enterprise Zone Program; and

**WHEREAS**, the Ordinance is or will be part of the application to the Department for designation of an Enterprise Zone pursuant to the Illinois Enterprise Zone Act, 20 ILCS 655/1 *et seq.*, hereinafter referred to as the “Act,” and Section 18-170 of the Property Tax Code (35 ILCS 200/18-170); and

**WHEREAS**, the Designating Units of Government desire to operate the Enterprise Zone in an efficient and effective manner in keeping with the terms of the Act and rules and regulations promulgated by the Department and the Illinois General Assembly for the operation of an Enterprise Zone; and

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual promises hereinafter contained, the Designating Units of Government agree that the following terms shall govern the operation and management of the Enterprise Zone.

**SECTION I – GENERAL PROVISIONS**

The name of the Enterprise Zone shall be the Lee Ogle Enterprise Zone, hereinafter referred to as the “Zone.”

- A) **Legal Description.** The area as described in Addendum “A” to this Agreement and the Ordinance shall be designated as the Lee Ogle Enterprise Zone.
- B) **Term.** The term of the Zone will be for 15 years commencing on January 1, 2017, and ending at midnight on December 31, 2031, or until such time as the Zone has expired, been decertified by the Department or repealed by the Illinois General Assembly or by ordinance of the Designating Units of Government, whichever is sooner. After the 13th year, the Zone is subject to review by the state Enterprise Zone Board for an additional 10-year designation beginning on the expiration date of the Zone. During the review process, the state Enterprise Zone Board shall consider the costs incurred by the State of Illinois and units of local government as a result of tax benefits received by the Zone before granting the extension. Upon approval of the state Enterprise Zone Board and certification by the Department, the Zone may further be in effect for an additional 10 years, beginning January 1, 2032.
- C) **Zone Administration.** The Zone Administrator (as hereafter defined) will be the President/CEO of the Lee County Industrial Development Association or other qualified party as determined from time to time by completing a Request For Qualifications process conducted by the Lee Ogle Enterprise Zone Advisory Board (as hereafter defined) in accordance with the Act and regulations promulgated thereunder. Administration of the Zone will be carried out as described in this Agreement.
- D) **Administration Fees.**
- 1) **Applicants:** As allowed by the Act, the Zone Administrator is hereby authorized to collect an Administration Fee from the Applicant for the issuance of Sales Tax Exemption Certificates for Construction Materials in order to help offset the management and operational costs associated with the administration of the Zone. Said fee shall be equal to .5 percent (1/2%) of the documented cost of building materials for each project up to a maximum of \$50,000 per Certificate (20 ILCS 655/8.2c). The Zone Administrator, after consultation with the Enterprise Zone Advisory Board, may also collect a reasonable processing fee from the Applicant for related Enterprise Zone activities such as boundary amendment applications, technical correction applications, and/or other applications resulting in an amendment to the Zone or Zone operating procedures, which may change from time to time. At no time will all fees combined, related to a single project, exceed \$50,000 or such amount as may be stipulated in state statute. The Designating Units of Government shall have no liability for payment of such fees on behalf of the Applicants.

2) **Designating Units of Government** – The Designating Units of Government agree to provide financial assistance to the organization employing the Zone Administrator. Said assistance shall be calculated using a per capita rate of \$.75 cents (seventy five cents) based on the population of the respective Designating Units of Government according to the most recent decennial census as well as allocation of Enterprise Zone Acreage as described below:

Lee Ogle Enterprise Zone Funding Formula for EZ Administration Operating Expense

2010 Population Lee & Ogle Counties Source: US Census

Lee	36,031
Dixon	15,692
Ogle	53,497
Rochelle	9,574
Total population both counties:	89,528
Per Capita for EZ Admin:	\$0.75/capita
Base Year Budget Amount for EZ Admin:	\$67,146.00

Maximum Total Available Acres Per EZ Statute:	100.0%	9,600.0 acres
Total Acres Allocated to Zone	89.4%	8,579.2 acres
Allocated to Lee County	51.0%	4,363.7 acres
Allocated To City of Dixon		1,157.3 acres
Allocated To Ogle County	49.0%	4,197.3 acres
Allocated To City of Rochelle		3,130.4 acres
Acres Held in Reserve for Future Development	10.6%	1,020.8 acres
Lee County Share	\$ 11,146	
City of Dixon Share	\$ 23,080	
51.0% of Budget	\$ 34,226	Lee County Share 51.0%
Ogle County Share	\$ 8,416	
City of Rochelle Share	\$ 24,504	
49.0 % of Budget	\$ 32,920	Ogle County Share 49.0%
	\$ 67,146	Budget 100%

The funding shall be adjusted each year for the following year according to the 3-year rolling average of each year's annualized October Consumer Price Index as published by the United States Bureau of Labor Statistics.

Said assistance is to be used in order to support the general management, operating and marketing expenses associated with the Zone. Funds may not be used for purposes unrelated to the costs of Zone operations as outlined in Section VI below.

- E) **Provisions for Tax Abatement.** The Designating Units of Government recognize the individual Enterprise Zone property tax abatement policies of each respective Designating Unit of Government, set forth below and in their respective Ordinances. The Designating Units of Government further agree that every recipient of property tax abatement within the Zone, subject to certification and/or as certified by the Department, will be subject to certain terms and conditions in the Memorandum of Understanding between the recipient and the Zone Administrator as also outlined below.

## SECTION II – DEFINITIONS

- A) “Memorandum of Understanding,” or “MOU,” as defined herein is the written agreement between the Zone Administrator, on behalf of the Designating Units of Government and other taxing districts participating in the Zone property tax abatement program, and the Applicant receiving tax abatement. The MOU defines the terms and conditions by which abatement is authorized, as stipulated in the Ordinances and this Agreement.
- B) “Project Application” as defined herein is the written application for Zone benefits for “Eligible Project Types,” job development and capital investment projects. The Project Application must be executed by the Applicant and submitted to the Zone Administrator prior to the initiation of construction of the project. The Project Application provides information necessary for the Zone Administrator to verify eligibility for Enterprise Zone benefits including, but not limited to, property tax abatement and Sales Tax Exemption for Construction Materials in conjunction with the Illinois Department of Revenue processes and procedures in effect at the time of the Project Application.
- C) “Eligible Project Types” as defined herein are those projects with uses conforming to the codified zoning districts and uses of the applicable Designating Unit of Government where the project is located. The specific zoning districts and types for each of the Designating Units of Government are as listed herein and as may be amended by local ordinance from time to time.
- D) “Eligible Special Uses, Variations” as defined herein are considered Eligible Project Types when the Special Use or Variation is granted pursuant to local ordinance of the applicable Designating Unit of Government where the project is located.

City of Dixon Districts for Eligible Project Types:

- B-1 Limited Neighborhood Business District
- B-2 General Business District

- CBD Central Business District
- BH-1 Interchange Planned Unit Development District
- LM Limited Manufacturing/Business Park District
- GM General Manufacturing District

Lee County Districts for Eligible Project Types:

- C-1 Neighborhood Office and Business District
- C-2 Planned Office and Business District
- C-3 General Business District
- I-1 Planned Industrial District
- I-2 General Industrial District
- PUD Planned Unit Development
- DPA Detailed Planning Area

Rochelle Districts for Eligible Project Types:

- Commercial Districts
  - B-1 Central Business District (CBD)
  - B-2 Highway Commercial District
  - B-3 Neighborhood Commercial District
- Industrial Districts
  - I-1 Light (limited) Industry District
  - I-2 General Industrial District
  - I-3 Heavy Industrial District
- Overlay Districts
  - TTO Transportation Overlay District
  - TOD Technology Overlay District

Ogle County Districts for Eligible Project Types:

- B-1 Business District
- B-2 Business Recreational District
- B-3 Restricted Interstate Highway Area Business District
- I-1 Industrial District
- PD Planned Development District

- E) “Commercial Multi-Family Residential Eligible Project Types” as defined herein are newly constructed multi-family residential projects where the buildings consist of six (6) units or more on a common foundation. For purposes of Zone, these projects shall be considered commercial in nature and an Eligible Project Type.
- F) Exclusions – Residential projects, other than Commercial Multi-Family Residential Eligible Project Types shall be ineligible for any benefits herein established in the Zone.

**SECTION III – DESIGNATING UNITS OF GOVERNMENT PROPERTY TAX ABATEMENT POLICIES.**

A) Pursuant to their respective Ordinance, each Designating Unit of Government shall have a uniform property tax abatement policy that follows the terms outlined below.

B) **City of Dixon, County of Lee, City of Rochelle and County of Ogle Property Tax Abatement** - In no event shall any abatement of taxes on any property exceed the amount attributable to the construction of the improvements or the renovation or rehabilitation of existing improvements on such property.

1) Commencing on or after January 1, 2017, taxes on real property levied by the City of Dixon, County of Lee, the City of Rochelle and the County of Ogle, whichever is applicable, shall be abated on approved property located within the boundary of the Enterprise Zone, as certified by the Department, and upon which new improvements have been constructed as follows:

- a) For taxes levied in the first year of abatement: 50%
- b) For taxes levied in the second year of abatement: 50%
- c) For taxes levied in the third year of abatement: 50%
- d) For taxes levied in the fourth year of abatement: 50%
- e) For taxes levied in the fifth year of abatement: 50%
- f) For taxes levied in the sixth year of abatement: 50%

Said abatements shall be for six (6) consecutive years beginning with the real estate taxes payable in the year following the first full year of a project's commercial operation after which said improvements have been made and fully assessed. Abatement for a specific project will cease after the sixth year or upon expiration, termination or decertification of the Zone, whichever is sooner.

2) The above property tax abatements shall be applicable solely for Eligible Project Types for improvements to real property upon which new construction, improvements, renovation or rehabilitation, for which a building permit is required and one has been obtained, has been completed after January 1, 2017, and before the expiration, termination or decertification of the Zone, whichever is sooner. Abatement shall only apply to the incremental increase in real estate taxes assessed as a result of the project and its related improvements.

D) **Eligibility** - Questions as to the eligibility of a project will be decided by the Zone Administrator. The Zone Administrator shall consult with the Enterprise Zone Advisory Board as necessary.

E) **Abatement Performance Monitoring Process.** Applicants meeting qualification criteria outlined above must enter into a Memorandum of Understanding with the Zone through its Administrator, outlining projected job creation and/or job retention numbers and capital investment for the project and setting forth performance measures and enforcement provisions. The Zone Administrator is authorized to enter such agreements on behalf of the Zone.

1) Recipients of property tax abatement must agree to maintain a minimum of 75% of the employment levels at the location as described in the Memorandum of Understanding for the entire term of abatement. Except as set forth in (4) below, failure to maintain a minimum of 75% of the employment levels for the entire term of the abatement shall result in the immediate termination of remaining abatement and/or the pro-rata repayment of previously abated property taxes to the applicable Designating Units of Government and other affected taxing districts.

2) The Zone Administrator will annually monitor the performance of the recipients of property tax abatement in order to ensure that job and investment projections outlined in the Memorandum of Understanding are being met.

3) The Zone Administrator will also inform the recipient of required State of Illinois reporting requirements. Failure to report Enterprise Zone benefits as required by the Illinois Department of Revenue, and/or other state agencies, as may be dictated by state statute, may result in termination of all locally designated Zone benefits.

4) The Zone Administrator, after consultation with the Enterprise Zone Advisory Board, may elect to waive enforcement of any performance measures outlined in the Memorandum of Understanding based on a finding that the waiver is necessary to avert an imminent, demonstrable, and material hardship to the recipient that may result in such recipient's bankruptcy, insolvency or discharge of workers.

F) **CONTINUITY OF BENEFITS.** Upon the Effective Date as set forth in Section XI, all incentives, Enterprise Zone property tax abatements, and benefits previously offered and in effect within the boundaries of the former Lee County Enterprise Zone #9 shall continue as originally awarded during the term of the Zone for the following groups:

1) Recipients of Enterprise Zone property tax abatement benefits or incentives on the effective date of this Agreement; or,

- 2) Projects which are proposed or under development on the effective date of this Agreement, if the project owner demonstrates that the proposed project has been committed to locating or expanding in the Zone; or,
- 3) Projects where substantial or binding financial obligations have been made; and such commitments have been made in reasonable reliance on the benefits and programs which would have previously been available as described in 1) and 2) above.

#### **SECTION IV – ENTERPRISE ZONE ADVISORY BOARD**

- A) Duties. The Enterprise Zone Advisory Board will perform the following duties with respect to the Zone:
  - 1) Implement, monitor and update established goals and objectives.
  - 2) Establish procedures for the operation and management of the Zone, including appeals processes, and recommendations and advice on policies for the operation and management of the Zone and the administration and enforcement of this Agreement and the respective Ordinances of the Designating Units of Government.
  - 3) Report to the Designating Units of Government and other participating taxing bodies, on an annual basis with respect to Zone activities, performance, policies and procedures.
  - 4) Prepare and distribute to the Designating Units of Government and participating taxing bodies an annual report for the Zone.
  - 5) Develop and implement a marketing program to inform local businesses and industries, as well as out of town prospects, about the Zone and its incentive programs.
  - 6) Coordinate Enterprise Zone programs and activities with the various other planning, economic development and community development entities in the area.
  - 7) Provide the necessary reporting data to the Department and the Illinois Department of Revenue.
  - 8) Perform other functions and duties as may be stipulated by future amendments to this Agreement by the Designating Units of Government or by the Act.

- B) **Membership.** The Enterprise Zone Advisory Board shall be comprised of the Chief Elected Officials of each of the Designating Units of Government, or their respective designees, a member designated by Lee County Industrial Development Association, or its designee, a member designated by Greater Rochelle Economic Development Corporation, or its designee, and the Zone Administrator.
- 1) **Terms of Membership.** The members of the Enterprise Zone Advisory Board shall serve during their respective term in office in the case of elected officials, and, in the case of the Zone Administrator and economic development organization members, for as long as such member holds the position.
  - 2) **Elections and Voting.** The Enterprise Zone Advisory Board shall elect a Chairman and Vice Chairman annually from its membership for a one year term, or until, in the case of elected officials, their respective term in office ends, whichever is sooner. Each member shall have one vote for election purposes and for any and all matters upon which members are called on to vote. Four members of the Enterprise Zone Advisory Board present and accounted for at any meeting shall constitute a quorum. A simple majority of the voting members present at any meeting (assuming a quorum is achieved) shall be required for action upon any item brought before the Enterprise Zone Advisory Board for a vote. No meeting of the Enterprise Zone Advisory Board shall be held except upon 48 hour prior notice to each member.
  - 3) **Compensation.** Excepting the Zone Administrator, Enterprise Zone Advisory Board members shall serve without compensation.
  - 4) **Staff.** The Zone Administrator shall serve as advisor and staff to the Enterprise Zone Advisory Board in order to assist in carrying out its functions and duties.
  - 5) **Conflict of Interest.** If any member of the Enterprise Zone Advisory Board has a personal conflict of interest in any matter before the Enterprise Zone Advisory Board, he or she shall not be permitted to vote on such matter. In such event, the applicable Designated Unit of Government shall be afforded an opportunity to select an alternate representative for purposes of such vote.

## **SECTION V - ENTERPRISE ZONE ADMINISTRATOR**

- A) **Zone Administrator.** The President/CEO of the Lee County Industrial Development Association (LCIDA), or other qualified party as determined from time to time by completing a Request For Qualifications process conducted by the Enterprise Zone Advisory Board in accordance with the Act and the

regulations promulgated thereunder, shall be the Administrator of the Zone (the "Zone Administrator").

B) **The Duties and Responsibilities** of the Zone Administrator shall be as follows:

1) **Administration - Project Eligibility.** The Zone Administrator shall administer and enforce this Agreement, the Ordinances and the MOUs, and operate and manage the Zone. All appeals from any decisions or determinations of the Zone Administrator shall be taken to the Enterprise Zone Advisory Board.

2) **Records.** The Zone Administrator shall maintain records associated with Zone activities and projects and those necessary for the preparation of reports required by the State of Illinois and the Enterprise Zone Advisory Board. Such records, including the records of the Enterprise Zone Advisory Board, shall be open to inspection by any of the Designating Units of Governments at all reasonable times.

3) **Report Preparation.** The Zone Administrator shall prepare all reports required by the State of Illinois.

4) **Advisor and Staff to the Enterprise Zone Advisory Board.** The Zone Administrator shall serve as advisor and staff to the Enterprise Zone Advisory Board. The Zone Administrator shall prepare agendas and minutes, handle correspondence and maintain the records of the Enterprise Zone Advisory Board.

5) The Zone Administrator shall initiate and enforce all Zone property tax abatement MOUs.

6) The Zone Administrator may also enter into other Enterprise Zone agreements as may be required from time to time, at the direction of the Enterprise Zone Advisory Board and the Designating Units of Government or as may be required by the Act.

## **SECTION VI - ZONE MANAGEMENT COSTS AND OPERATION.**

Staff salary and fringe benefits of the Zone Administrator shall be determined and paid by the LCIDA or other duly qualified party hereunder, as part of its responsibilities in acting as employer of the Zone Administrator. All operating expenses for the administration of the Zone shall be paid by the LCIDA or other duly qualified party hereunder. Administration fees from Applicants and the Designating Units of Government shall be used for this purpose.

## **SECTION VII – ADMINISTRATOR SUCCESSION PROCESS.**

The agreement between the Designating Units of Governments, the Enterprise Zone Advisory Board, and the LCIDA, by which the LCIDA President/CEO serves as the contracted Zone Administrator to act in the various capacities set forth herein, shall contain a provision authorizing the termination of said agreement, without cause, by any party upon 60-days prior written notice to the other parties. In the event that any of the Designating Units of Government, the Enterprise Zone Advisory Board, or the LCIDA elect such a termination prior to the expiration of this Agreement, said termination shall not under any circumstances be construed as terminating this Agreement. The Designating Units of Government expressly agree that in such circumstance, this Agreement shall remain in full force and effect and the Enterprise Zone Advisory Board shall, in such event, designate, by majority vote, after a Request For Qualification process, another qualified entity, board or body to take over the duties of the LCIDA and LCIDA President/CEO with regard to the Zone; or the Designating Units of Government shall create a means or mechanism for the alternate selection of a Zone Administrator (as allowed by statute) , which shall be ratified by a vote of the majority of the Designating Units of Government.

## **SECTION VIII – NO ASSIGNMENT OR TRANSFER.**

Enterprise Zone property tax abatement shall be specifically granted to the Applicant and may not be re-assigned or transferred without a Written Notice of Transfer Request being submitted to the Zone Administrator. In the event that the Applicant desires to transfer or assign any or all of its ownership of the subject property where the project is located, the transferor shall submit correspondence to the Zone Administrator requesting transfer of the abatement to the new owner for the time remaining on the abatement.

The Zone Administrator, after consultation with the Enterprise Zone Advisory Board, shall review the request to transfer said abatement, and determine the transferee's eligibility for such transfer, subject to the terms and conditions of this Agreement and compliance with the Act. The Zone Administrator shall notify the Designated Units of Government and other affected taxing districts that such a request has been made and the action taken by the Zone Administrator to address the transfer request.

## **SECTION IX – TAX INCREMENT FINANCING DISTRICT OR REDEVELOPMENT AREA OVERLAY.**

In the event that a Tax Increment Financing (TIF) District or redevelopment district or project area (20 ILCS 655/5.4.1) is, will be, or has been created by a municipality under Division 74.4 of the Illinois Municipal Code, and said redevelopment project area contains property that is located in an enterprise zone, and the municipality adopts an enterprise zone designating ordinance pursuant to Section 5.4 of the Act specifically concerning the abatement of taxes on property, as above, located within a redevelopment project area created pursuant to Division 74.4 of the Illinois Municipal Code, and the Department certifies the Ordinance, then the property that is

located in both the enterprise zone and the redevelopment project area shall not be eligible for the abatement of taxes under Section 18-170 of the Illinois Property Tax Code.

**SECTION X – LOCAL SOURCING STATEMENT.**

The Designating Units of Government encourage companies receiving Enterprise Zone benefits, as provided herein, to utilize local labor and to purchase building materials locally.

**SECTION XI – EFFECTIVE DATE.**

This Agreement shall be in effect from the date of and after its execution by all of the Designating Units of Government, recording and upon certification of the new Enterprise Zone designation by the Department, according to law. Failure to receive certification of the Zone by the Department will render this Agreement null and void.

**SECTION XII – COMPLIANCE WITH OTHER LAWS.**

Neither the passage of this Agreement nor the establishment of the Zone shall supersede other applicable laws, ordinances or regulations, unless expressly provided for in this Agreement or the Act. Any development undertaken pursuant to the creation of the Zone shall be performed in full compliance with applicable laws, ordinances, regulations and processes applicable to the respective Designating Units of Government.

**SECTION XII – REASONABLE ACTION.**

For matters related to the operation, amendment or modification of the Zone which will result in job creation or retention or capital investment within the boundaries or proposed boundaries of the Zone that, by statute, require the approval of the Designating Units of Government, the Designating Units of Government stipulate and concur that said approval shall not be unreasonably withheld by any of said Designating Units of Government.

This agreement is made as of the year and day first above written.

City of Dixon

County of Lee

By: \_\_\_\_\_

By: \_\_\_\_\_

Mayor

County Board Chairman

City of Rochelle

County of Ogle

By: \_\_\_\_\_

By: \_\_\_\_\_

Mayor

County Board Chairman