

[FOR RECORDER'S USE]

ANNEXATION AGREEMENT
[NAME OF DEVELOPMENT]

Date: _____, 2021

Parties: **THE CITY OF ROCHELLE**, an Illinois municipal corporation

and

Greater Rochelle Economic Development Corporation ("GREDCO"), an Illinois not-for-profit corporation

Property: Approximately 10 acres and is located North of Coated Sand Solutions in Rochelle, Illinois 61068.

Legal Description: see attached Exhibit A

Property Tax Identification Number(s): 25-32-400-022

Common Address: To be assigned.

Prepared By and Return To:
DOMINICK LANZITO
Peterson Johnson & Murray, Chicago, LLC
200 W Adams, Suite 2125
Chicago, Illinois 60606
(312) 782-7150
Attorney for City of Rochelle

**CITY OF ROCHELLE
ANNEXATION AGREEMENT
[NAME OF DEVELOPMENT]**

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**ANNEXATION AGREEMENT
(INDUSTRIAL/COMMERCIAL)**

This Annexation Agreement (“Agreement”) entered into as of the ___ day of _____, 2021, between the City of Rochelle, an Illinois municipal corporation (“the City”), and Greater Rochelle Economic Development Corporation, an Illinois not-for-profit corporation (“GREDCO” or “Owner” or “Developer”):

WITNESSETH

THAT WHEREAS, the City is a non-home rule municipal corporation organized under the laws of the State of Illinois, and has the power to annex territory and to enter into annexation agreements in connection with the annexation of territory, pursuant to the applicable provisions of the Illinois Municipal Code, including without limitation 65 ILCS 5/7-1-8 and 65 ILCS 5/11-15.1-1 *et. seq.*; and

WHEREAS, Owner includes all of the owners of record of the fee interest in certain property consisting generally of 10 acres located north of Coated Sand Solutions in Rochelle, Illinois 61068 in Dement Township, Ogle County, Illinois, the legal description of which is attached hereto as **Exhibit A** and incorporated herein (“the Property”); and

WHEREAS, Developer the owner of the property to be annexed; and

WHEREAS, the Property is not within the corporate boundaries of any incorporated municipality, the Property is contiguous to the City, and there are no electors residing within the Property; and

WHEREAS, a petition for annexation has been filed with the City Clerk of the City, pursuant to 65 ILCS 5/7-1-8, pursuant to which the Owner and Developer seek to have the Property annexed to the City pursuant to the terms of this Agreement; and

WHEREAS, all notices, publication, public hearings, and all other matters required by law have been given and performed by the Corporate Authorities of the City regarding the approval, execution and delivery of the Agreement; and

WHEREAS, Developer has represented to the City that Developer intends to develop the Property in accordance with the provisions of the Rochelle Municipal Code, including without limitation Chapter 22 (Buildings and Building Regulations), Chapter 86 (Subdivisions), and Chapter 110 (Zoning), as may be amended, and as may be modified by this Agreement; and

WHEREAS, Developer’s present Concept Plan for the Property is attached hereto as **Exhibit B** and incorporated herein by reference, but is subject to change during

the process of City review and approval, but in all events will be subject to the terms of this Agreement; and

WHEREAS, the City Council of the City of Rochelle, after due and careful consideration, has concluded that the annexation and development of the Property on the terms set forth herein would further the orderly growth of the City and serve the best interests of the citizens of the City; and

WHEREAS, by a favorable vote of at least two-thirds (2/3) of the City Council then holding office, an ordinance has heretofore been adopted authorizing the execution and delivery of this Agreement;

NOW THEREFORE, in consideration of the foregoing premises and the mutual agreements contained herein, the parties agree as follows:

1. RECITALS. The recitals set forth above are a material part of this Agreement and are hereby incorporated in this Agreement by reference.

2. GENERAL AND SPECIAL TERMS. This Agreement shall consist of the foregoing recitals, the provisions of paragraphs 1 through 5 and the following:

- (a) The General Terms set forth in Schedule 1 attached hereto;
- (b) The Special Terms set forth in Schedule 2 attached hereto;
- (c) Exhibits A, B, C, and D attached hereto;
- (d) All other Exhibits referred to in the General Terms or in the Special Terms.

3. ROCHELLE MUNICIPAL CODE. Except as modified by this Agreement, the provisions of the Rochelle Municipal Code in effect from time to time shall govern the development of the Property and the relationship of the Parties.

4. EXCULPATORY CLAUSE. If applicable, this Agreement is executed by one or more of the Owners, not individually but solely as Trustee under the terms and provisions of the Trust Agreement referred to. All representations and warranties herein contained, excepting those expressly set forth in Section 43(d) of the General Terms, are those of Owner's Beneficiary, and no obligation or liability thereon shall inure or apply against the Owner. Owner's undertakings under this Agreement shall be to execute and deliver the Agreement in accordance herewith and all necessary documents, if any, requisite to consummate the transaction.

5. ADDRESSES FOR NOTICES. Notices referred to in this Agreement shall be sent to the following addresses, unless otherwise designated in writing:

If to City: Rochelle City Clerk

420 North 6th St.
Rochelle, IL 61068

With a copy to: Rochelle City Manager
420 North 6th St.
Rochelle, IL 61068

With a copy to: Dominick Lanzito, City Attorney
Peterson Johnson & Murray, Chicago, LLC
200 W Adams, Suite 2125
Chicago, Illinois 60606

If to Owner or
Developer: GREDCO
501 10th Avenue, Suite 1
Rochelle, IL 61068

With a copy to: Gary R. Gehlbach
Ehrmann Gehlbach Badger & Considine, LLC
215 E. First Street
P.O. Box 447
Dixon, IL 61021

Any notice required or permitted by the provisions of this Agreement shall be in writing and sent by certified mail, return receipt requested, or personally delivered, to the Parties at the addresses shown or at such other addresses as the Parties may, by notice, designate. Notices shall be deemed given on the fifth (5th) business day following deposit in the U.S. Mail, if given by certified mail as aforesaid, and upon receipt, if personally delivered.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first above written.

CITY OF ROCHELLE, an Illinois municipal corporation (“City”)

GREATER ROCHELLE ECONOMIC DEVELOPMENT CORPORATION, an Illinois not-for-profit corporation (“Owner” and “Developer”)

By: _____
City Manager

By: _____

Attest: _____
City Clerk

Its: _____

DOMINICK LANZITO
Peterson Johnson & Murray, Chicago, LLC
200 W Adams, Suite 2125
Chicago, Illinois 60606
(312) 782-7150
Attorney for City of Rochelle

**SCHEDULE 1 (GENERAL TERMS)
(INDUSTRIAL/COMMERCIAL)**

**ARTICLE I
TERM, ANNEXATION AND ZONING**

Section 1. Term. The term of this Agreement shall be as set forth in Schedule 2 (Special Terms).

Section 2. Enactment of Annexation Ordinance. Concurrently with the execution of this Agreement (or within such other time as may be set forth in Schedule 2 (Special Terms)), the City will enact a valid and binding ordinance (“the Annexation Ordinance”) annexing the Property to the City. The City shall file the Annexation Ordinance and a plat of annexation (to be provided by Developer at Developer’s cost) with the office of the County Recorder within thirty (30) days after enactment of the Annexation Ordinance. Developer shall pay all costs of recordation at the time of recordation.

This Agreement, in its entirety, together with any petitions for annexation or zoning filed in connection herewith, shall be null and void, and of no force or effect unless the Property is annexed to the City contemporaneously with the approval and execution of this Agreement (or within such other time as may be set forth in Schedule 2 (Special Terms)).

Section 3. Adoption of Zoning Map Amendment. Concurrently with the enactment of the Annexation Ordinance, the City will adopt one or more ordinances zoning the Property in the manner set forth in Schedule 2 (Special Terms). The zoning adopted pursuant to this Agreement shall remain in effect throughout the term of this Agreement and after the expiration of this Agreement unless thereafter amended in accordance with applicable law.

**ARTICLE II
CODES, FEES AND REIMBURSEMENTS**

Section 4. Applicability of Codes. Except as otherwise expressly provided in this Agreement, for the period set forth in Schedule 2 (Special Terms), the provisions of the Rochelle Municipal Code Chapters 22 (Buildings and Building Regulation), 86 (Subdivisions), and 110 (Zoning) in effect as of the date of this Agreement shall remain in effect as they pertain to the Property. A true and correct copy of said Chapters shall be initialed by the Parties. The original shall remain with the City Clerk and copies shall be provided to the Developer and the City Manager.

Beginning immediately following the end of the period set forth in Schedule 2 (Special Terms), except as otherwise expressly provided in this Agreement, Developer shall comply with all provisions of the Rochelle Municipal Code then in effect with respect to all aspects of the development of the Property. If, during the term of this

Agreement, the Rochelle Municipal Code is amended in a manner that imposes less restrictive requirements on the development of property within the City with respect to similarly situated developers, then Developer may elect to proceed under such less restrictive requirement.

Section 5. Limitations on Fees. Attached hereto as **Exhibit C** is a list of the fees and charges (not including user fees) regularly imposed by the City pursuant to the Rochelle Municipal Code on new developments. Minor fees and charges are not included on Exhibit C. Except as expressly set forth in Exhibit C, no fee or charge of any description (except user fees) shall be imposed upon Developer or upon the development and use of the Property for the period set forth in Schedule 2 (Special Terms). The City shall not increase the amount of any fee or charge shown on Exhibit C for the period set forth in Schedule 2 (Special Terms). Thereafter, Developer shall be liable for payment of all fees made generally applicable to all similarly-situated owners, users and developers of property within the City.

Section 6. [omitted]

Section 7. Reimbursement to City. Developer shall reimburse the City for all actual and reasonable professional fees, costs or other expenses related to the Property incurred by the City in connection with the negotiation and approval of this Agreement and related matters, including without limitation reasonable legal fees, reasonable charges for staff time, planning and engineering consultant fees, and a reasonable portion of the cost of pertinent regional traffic studies and review fees and expenses as set forth in **Exhibit C**.

Developer agrees to reimburse the City for all amounts payable by the City to the Ogle-Lee Fire Protection District by reason of the application of Section 20(e) of the Fire Protection District Act, 70 ILCS 705/20(e). Developer shall pay such amounts within thirty (30) days after receipt of an invoice from the City showing the basis for the amount due. The City may invoice in advance, and Developer shall pay, an amount estimated to represent five (5) years of such payments, based on the latest amount payable by the City pursuant to said statute.

Additionally, Developer agrees to reimburse City for all amounts paid by City for construction observation expenses incurred in connection with the construction of improvements on the Property, notwithstanding any limitation on such reimbursement contained in the Rochelle Municipal Code.

ARTICLE III DEVELOPMENT CONDITIONS

Section 8. City Code to Apply. The Property shall be developed in accordance with the provisions of the Rochelle Municipal Code, except as modified in these General Terms or in Schedule 2 (Special Terms).

Section 9. Hard Surface Requirements. Pursuant to Section 110-415 (Surfacing of Parking Areas) of the City’s Municipal Code, Developer is required to construct all open off-street parking areas shall be improved with a compacted Type-B base course, not less than eight (8) inches in thickness, surfaced with either an asphalt or concrete surface and with the exception of single family residential districts, shall be encompassed on all edges with a cast in place, concrete, barrier-type curb. Pursuant to this Agreement and the variations approved by the City, Owner and Developer shall have three years from the date of this Agreement to surface the necessary areas of the property with pavement or concrete. Should Owner and Developer fail to surface the necessary areas within three years pursuant to the City’s Municipal Code, business operations shall immediately cease.

Section 10. Excavation, Grading, and Preparation of the Property for Development. Prior to the construction of any improvements on the Property (public or private), Developer shall secure any required permits and approvals from any applicable federal or state agencies relating to archeological significance, endangered species, floodplain/floodway or wetlands.

Developer shall have the right, prior to obtaining approval of final engineering drawings and prior to approval of the Final Plat of subdivision by the City, to undertake excavation, preliminary grading work, filling, and soil stockpiling on the Property in preparation for the development of the Property based solely on submittal of a grading plan and soil erosion and sedimentation control plan and drainage plan to the City, which plans shall be approved by the City provided said plans are in accordance with all applicable City codes and ordinances. Such work shall be undertaken without injury to the property of surrounding property owners. A letter of credit, bond or other security in an amount not to exceed 110% of the approved estimated cost of completing such excavation, preliminary grading work, filling, soil stockpiling, erosion control items, seeding, mulching, and other associated drainage systems, structures or pipes necessary to assure proper site restoration shall be required and submitted by Developer as a condition precedent to the commencement of such work.

Section. 11. Construction Traffic Routes and Parking. City may designate routes of access to the Property for construction traffic to protect pedestrians and to minimize disruption of traffic and damage to paved street surfaces; provided, however, that the designated routes shall not unduly hinder or obstruct direct and efficient access to the Property for construction traffic. Developer shall keep all routes used for construction traffic free and clear of mud, dirt, debris, obstructions and hazards and shall repair all damage caused by construction traffic. All construction vehicles, including passenger vehicles, and construction equipment shall be parked within the Property or in areas designated by the City.

Section 12. Dedication and Acceptance of Improvements. Developer shall dedicate to the City the roads, sanitary sewers, storm sewers, water mains and sidewalks (“Improvements”) upon dedicated utility easements and/or public right-of-way within the Property, upon final acceptance by City. Nothing whatsoever shall constitute an

acceptance by the City of any Improvement except express acceptance by the City in compliance with the requirements of the Rochelle Municipal Code, including without limitation Sections 86-54 through 86-57.

Prior to acceptance of the Improvements by the City, Developer shall execute, or cause to be executed, all documents that the City shall request to transfer Ownership of the Improvements to, and to evidence Ownership of the Improvements by, the City, free and clear of all liens, claims, encumbrances, and restrictions unless otherwise approved by the City. All such documents shall be in form and substance acceptable to the City. Developer shall simultaneously grant, or cause to be granted, to the City all easements or other property rights which the City may require to install, operate, maintain, service, repair, and replace the Improvements that have not previously been granted to the City, free and clear of all liens, claims, encumbrances, and restrictions, unless otherwise approved by the City.

City shall not be obligated to accept any street until all construction traffic on the street has ceased and the street has been completed and, if necessary, restored and repaired. City shall not be obligated to keep any street cleared, plowed or otherwise maintained until the street has been accepted by the City in accordance with this Agreement; provided, however, that the City shall plow any street after the binder has been applied and found acceptable by the City Engineer.

Section 13. Conveyances. Any conveyance of real estate to the City pursuant to this Agreement shall be by warranty deed, plat of dedication or appropriate dedication on a recorded plat of subdivision conveying good and merchantable fee simple title to the City. Any deed of conveyance shall be subject only to covenants, restrictions and easements of record (provided the same do not render the real estate unsuitable for the purposes for which it is being conveyed), the terms of this Agreement, general taxes for the year in which the conveyance is made, and such other exceptions as may be agreed by the City in writing.

ARTICLE IV UTILITIES

Section 14. Utility Easements. Developer shall provide to City, with no charge, all easements on property necessary to carry out the provisions of this Agreement related to utilities. Upon request by Developer, and subject to limitations as provided by applicable law, City shall, at Developer's expense, use its best efforts to acquire any off-site easements from third parties which are necessary to enable the City to provide water, sanitary sewer and electrical service to the boundaries of the Property in accordance with the provisions of this Agreement. If necessary, and upon request by Developer following Developer's use of its best efforts to acquire any necessary off-site easements for utilities, City will promptly use its power of eminent domain to obtain such off-site easements from third parties at Developer's expense, and Developer shall promptly reimburse City, on an ongoing basis, for all costs and expenses of any such eminent domain proceeding.

Section 15. Costs of Upsizing. Any upsizing of sanitary sewer, water, electrical or fiberoptic systems required by the City for long range planning, over the amounts required herein, shall be paid by the City in accordance with the Rochelle Municipal Code. The costs to be paid by the City for such upsizing shall include only the costs of materials.

Section 16. Recapture (Utilities). [intentionally omitted]

Section 17. Water Service. Developer shall, at its sole cost and expense, construct and install all potable water facilities required from the terminus of existing water mains to the Property line and within the Property, and to the far side of the Property, in accordance with any approved final plat and the provisions of the Rochelle Municipal Code, except as may be expressly set forth in Schedule 2 (Special Terms).

City agrees that it will provide a fully functional potable water supply system sufficient to serve the Property as developed, at the time such system is needed. Nothing in this section shall be deemed to require the City to reserve water capacity in advance of the time it is needed.

Section 18. Sanitary Sewer Service - Developer shall, at its sole cost and expense, construct and install all sanitary sewer facilities required from the terminus of existing sanitary sewer facilities to the Property line and within the Property, and to the far side of the Property, in accordance with any approved final plat and the provisions of the Rochelle Municipal Code, except as may be expressly set forth in Schedule 2 (Special Terms).

City agrees that it will provide sanitary sewer facilities sufficient to service the Property as developed, at the time such system is needed. Nothing in this section shall be deemed to require the City to reserve sanitary sewer capacity in advance of the time it is needed.

Section 19. Electric and Fiberoptic Service; Street Lights. City shall, at Developer's sole cost and expense, construct all electric and fiberoptic facilities required from the terminus of existing electric facilities to the Property line and within the Property, and to the far side of the Property, in accordance with any approved final plat and the provisions of the Rochelle Municipal Code, except as may be expressly set forth in Schedule 2 (Special Terms).

City shall, at Developer's sole cost and expense, install streetlights within the Property in accordance with this Section and the Rochelle Municipal Code, except as may be expressly set forth in Schedule 2 (Special Terms). The number and location of streetlights shall be consistent with the Illuminating Engineering Society (IES) Code. Developer shall pay City the full cost for streetlight installation prior to the commencement of installation. The streetlights referred to in this section shall also include, at a minimum, streetlights within the rights-of-way along those portions of

streets, roads or highways that are contiguous to the subject Property then being developed.

**ARTICLE V
STREETS, SIDEWALKS AND TRAFFIC LIGHTS**

Section 20. Interior Roadways and Sidewalks. Developer, at its sole cost and expense, shall construct all interior roadways and sidewalks necessary to service the Property at locations to be determined by the parties, in accordance with the requirements of the Rochelle Municipal Code, except as may be otherwise set forth in Schedule 2 (Special Terms). Sidewalks shall be constructed along both sides of all streets and along any adjacent right-of-way. All roads and streets within the Property shall be public and shall be dedicated to the City.

Section 21. Street Construction Standards. All public roadways to be dedicated to the City shall be constructed in accordance with the standards set forth in the Rochelle Municipal Code, except as may be otherwise set forth in Schedule 2 (Special Terms). All roadways that may be reasonably anticipated to service light industrial uses with semi-truck traffic shall be constructed to Class II Illinois Department of Transportation (IDOT) standards.

Section 22. Traffic Lights. Developer shall contribute to the cost of installation of any required or anticipated traffic signal lights as set forth in Schedule 2 (Special Terms). The provisions of this paragraph shall survive the expiration of this Agreement.

Section 23. Perimeter and Offsite Road Improvements. Developer shall contribute to the cost of perimeter and offsite road improvements necessitated in whole or in part by the improvements to be constructed on the Property, on the terms set forth in Schedule 2 (Special Terms).

Section 24. Recapture (Roads). [intentionally omitted].

**ARTICLE VI
STORMWATER PROVISIONS**

Section 25. Stormwater Management; Drainage District Review. Developer shall provide all necessary storm sewers, retention systems and compensatory storage in compliance with all provisions of the Rochelle Stormwater Management Ordinance included within the Rochelle Municipal Code, including without limitation provisions relating to stormwater drainage and detention, stream and wetland protection, soil erosion and sediment control, flood way and flood plain protection, and shall comply with all other applicable law, rules and regulations related to stormwater management. The retention system shall be maintained by the Developer or the Association in accordance with covenants recorded against the Property for that purpose in a safe, sanitary and sightly manner. In determining whether any lot satisfies zoning standards, any part thereof within a retention system may be included as part of the area of said lot.

Developer shall at all times comply with all requirements of applicable ordinances, statutes, rules and regulations then in effect relating to stormwater management, including without limitation provisions of the Rochelle Municipal Code and requirements of the Illinois Department of Natural Resources (IDNR) and the Federal Emergency Management Agency (FEMA), if appropriate.

Developer shall have all stormwater and drainage plans, including a detailed onsite subsurface drainage tile study, reviewed and approved by the appropriate Drainage District (“District”) and shall reimburse the District for the District’s reasonable costs of review. In the event the District fails to complete its review and approval within thirty (30) days following submission of Developer’s plans to the District, the District shall be deemed to have given its approval to the plans. In all events, final approval of stormwater and drainage plans for the Property remains with the City.

Section 26. Stormwater Management Fee. Developer shall pay, as a contractual obligation under this Agreement, all sums provided in the Rochelle Municipal Code and in resolutions of the Rochelle City Council adopted pursuant to the Rochelle Municipal Code, as a Stormwater Management Fee for the Property. The total payment and the timing of the payment shall be as shown in Schedule 2 (Special Terms). Developer’s obligation to pay the Stormwater Management Fee shall be contractually binding upon Developer regardless of any legal ruling affecting the validity of any ordinance establishing the fee.

Section 27. Regional Detention; Reimbursement by City. The parties shall comply with the provisions of the Rochelle Municipal Code, with respect to calculating and accommodating stormwater flows from upstream tributary areas. In the event City should choose to require a regional or oversized stormwater storage facility on the Property, City shall reimburse Developer for the cost of oversizing the facility to accommodate the additional storage volume needed for the upstream tributary area. City’s reimbursement to Developer shall be calculated using Developer’s actual per acre purchase price for any additional land required for such oversizing, together with Developer’s actual cost for any additional excavation and landscaping required for such oversizing. If the City will not require regional stormwater detention on the Property, that agreement will be shown in Schedule 2 (Special Terms).

ARTICLE VII ENFORCEMENT OF COVENANTS

Section 28. Required Provisions. The Covenants shall include, at a minimum, the following provisions: (i) membership in the Association shall be mandatory for each and every owner and successive owner of any portion of the Property; (ii) the Association shall be responsible for the care, conservation, maintenance and operation, in a first-rate condition and in accordance with predetermined standards, of the Common Areas; (iii) the Association shall be responsible for casualty and liability insurance and the City shall be named as an additional insured on all policies of liability insurance obtained by the Association; (iv) the owners of the Property, or the Association, shall be

responsible for real estate taxes for the Common Areas; (v) the owners of the Property shall pay their pro rata share of all costs and expenses incurred by the Association by means of assessments levied by the Association which shall become a lien on the Property in accordance with the statutes of the State of Illinois; (vi) the Association shall have the right to adjust the assessment to meet changed needs, except any assessment imposed by City, and the membership vote required to authorize an adjustment shall not be fixed at more than 51% of the members voting on the issue; and (vii) the Association shall be created and established prior to the sale of any portion of the Property.

Section 29. Enforcement by City. City may, at its option, enforce any and all covenants, conditions, restrictions, and easements in the Covenants. In such event, the Association (or Developer if no Association has been established) shall reimburse City for all of City's costs and expenses, including without limitation attorney's fees, incurred by City in connection with said enforcement. Nothing in this Section shall be deemed to impose an obligation of enforcement upon the City.

Section 30. Failure to Maintain Common Areas. In the event the City reasonably determines that either the Developer or the Association has failed to properly maintain the Common Areas, City may, but is not required to, enter or authorize others to enter onto the Property and to maintain or cause others to maintain the Common Areas, and in such event the City shall be paid for same pursuant to the imposition of a special service area tax or assessment as set forth herein.

Section 31. Special Service Area for Maintenance. Developer and Owner hereby consent to the establishment of a special service area, pursuant to the provisions of Illinois law, including 35 ILCS 200/27-5, *et. seq.*, consisting of the Property ("Special Service Area"). Neither the Developer nor the Owner nor any lot owner in the Property shall object or cause anyone else to object to the creation of the Special Service Area. The Special Service Area shall be created prior to any building being conveyed within the development, but shall be maintained in inactive status unless and until activated by the City in accordance with the provisions of this Article. The Special Service Area shall not be activated unless and until the City determines that neither the Developer nor the Association has properly maintained the Common Areas on an ongoing basis. The Special Service Area shall continue indefinitely unless the City determines otherwise or as otherwise limited by law.

For the foregoing purpose, the City may levy Special Service Area taxes to the fullest extent provided by law required to maintain the Common Areas and pay all costs of operation, upkeep, maintenance, repair, replacement, alteration, safekeeping, and improvements for the foregoing, including recovering costs for prior years' as well as current and future years' maintenance, and to recover costs for any and all administrative and legal actions to put into effect or to defend the ability of City to establish and collect taxes from the Special Service Area. The Special Service Area shall be for perpetual duration with a maximum rate of two and one-half percent (2 ½ %) of the assessed value, as equalized on the property in the Special Service Area, excluding all personal property. The actual tax to be levied shall be determined annually based on the best estimate of

incurred or expected cost for the City to maintain the Common Area and for other costs described herein. The Developer and the Association shall be jointly and severally responsible for the City's expense in creating the Special Service Area in an amount not to exceed \$25,000.

ARTICLE VIII REMEDIES

Section 32. Remedies Available; No Election. Subject to the indemnity provisions of Article XII, upon a breach of this Agreement, any of the parties, in any court of competent jurisdiction, by an action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained, may be awarded damages for failure of performance or both. No action taken by any party hereto pursuant to the provisions of this Article or pursuant to the provision of any other Article of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and non exclusive of any other remedy either set forth herein or available to any party at law or in equity.

Section 33. Notice and Opportunity to Cure. In the event of a material breach of this Agreement (other than non-payment of sums owed), the Parties agree that the party alleged to be in breach shall have thirty (30) days after written notice of said breach to correct the same prior to the non-breaching party's seeking of any remedy provided for herein, (provided, however, that said thirty (30) day period shall be extended if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same).

Section 34. Failure to Cure. If any of the Parties shall fail to perform any of its obligations hereunder (other than non-payment of sums owed), and the party affected by such default shall have given written notice of such default to the defaulting party, and such defaulting party shall have failed to cure such default within thirty (30) days of such default notice (provided, however, that said thirty (30) day period shall be extended if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same), then, in addition to any and all other remedies that may be available, either in law or equity, the party affected by such default shall have the right (but not the obligation) to take such action as in its reasonable discretion and judgment shall be necessary to cure such default. In such event, the defaulting party hereby agrees to pay and reimburse the party affected by such default for all reasonable costs and expenses (including attorney's fees and litigation expenses) incurred by it in connection with action taken to cure such default.

Section 35. No Waiver. The failure of the Parties to insist upon the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

Section 36. Force Majeure. If the performance of any obligation to be performed hereunder by any Party is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances may include acts of God, war, acts of civil disobedience, strike or similar acts), the time for such performance shall be extended by the amount of time of such delay.

ARTICLE IX LIABILITY AND INDEMNITY OF CITY

Section 37. City Review. Developer acknowledges and agrees that the City is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the City's review and approval of any plans for the Property or the Improvements, or the issuance of any approvals, permits, certificates, or acceptances for the development or use of the Property or the Improvements, and that the City's review and approval of those plans and the Improvements and issuance of those approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure Developer, or any of its heirs, successors, assigns, tenants, and licensees, or any other person, against damage or injury of any kind at any time.

Section 38. City Procedure. Developer acknowledges and agrees that notices, meetings, and hearings have been properly given and held by the City with respect to the approval of this Agreement and agrees not to challenge the City's approval on the grounds of any procedural infirmity or of any denial of any procedural right.

Section 39. Indemnity. Developer shall hold harmless, defend and indemnify the City, the Corporate Authorities, the Plan Commission, and all City elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from any and all claims (except for willful misconduct) that may be asserted at any time against any of them in connection with (i) the City's review and approval of any plans for the Property or the Improvements; (ii) the issuance of any approval, permit, certificate, or acceptance for the Property or the Improvements; and (iii) the development, construction, maintenance, or use of any portion of the Property or the Improvements, for activity occurring prior to, or contemporaneously with, acceptance of the Improvements.

Section 40. Defense Expense. Developer shall, and does hereby agree to, pay all expenses, including without limitation legal fees and administrative expenses, incurred by Developer in defending City with regard to any and all of the claims referenced in Sections 37 and 39 of this Agreement.

Section 41. Assignability and Transfer of Obligations. This Agreement shall inure to the benefit of, and be binding upon, successors of Developer and its grantees, lessees, and assigns, and upon successor corporate authorities of City and successor municipalities, and shall constitute a covenant running with the land.

All obligations assumed by Developer under this Agreement shall be binding on Developer, on any and all of Developer's, successors, and assigns, and on any and all of

the respective successor legal or beneficial owners of all or any portion of the Property. To assure that Developer's successors, and assigns, and successor owners of all or any portion of the Property have notice of this Agreement and the obligations created by it, Developer shall:

- (a) Deposit with the City Clerk, contemporaneously with the City's approval of this Agreement, any consents or other documents necessary to authorize the City to record this Agreement in the office of the Recorder of Ogle County; and
- (b) Notify the City in writing at least 30 days prior to any date after which Developer transfers a legal or beneficial interest in any portion of the Property to any Person not a party to this Agreement; and
- (c) Incorporate, by reference, this Agreement into any and all real estate sales contracts entered into for the sale of all or any portion of the Property to any person, firm or entity not a party to this Agreement; and
- (d) Require, prior to the transfer of all or any portion of the Property, or any legal or equitable interest in the Property to any person, firm or entity not a party to this Agreement, the transferee to execute an enforceable written agreement, in substantially the form attached to this Agreement as **Exhibit D** agreeing to be bound by this Agreement ("Transferee Assumption Agreement"), and to provide the City, after request, with reasonable assurance of the financial ability of the transferee to meet those obligations as the City may require;

provided, however, that the requirements stated in clauses (b), (c) and (d) shall not apply to any contract for, or transfer of, an individual lot or group of lots for which all Improvements have been completed and approved and, if required, accepted pursuant to Section 12 of this Agreement.

The City agrees that after a successor becoming bound to the personal obligation created in the manner provided in this Agreement and providing the financial assurances required in this Section, the personal liability of Developer shall be released to the extent of the transferee's assumption of liability. The failure of Developer to provide the City with a fully executed copy of a Transferee Assumption Agreement required above by the transferee to be bound by this Agreement and, if requested by the City, with the transferee's proposed assurances of financial capability before completing the transfer shall result in Developer remaining fully liable for all of Developer's obligations under this Agreement but shall not relieve the transferee of its liability for those obligations as a successor to Developer.

ARTICLE X REPRESENTATIONS AND WARRANTIES

Section 42. Representations and Warranties of Owner and Developer .
Owner represents and warrants to the City:

- (a) that Owner includes all of the legal title holders of record of the Property;
- (b) that Owner has full power and authority to execute this Agreement and to bind the Property as herein provided;
- (c) that the legal descriptions of the Property set forth herein and in the attached Exhibits are accurate and complete;
- (d) that the officers of Owner executing this Agreement have been lawfully authorized to execute this Agreement on behalf of Owner and that Owner is lawfully organized and in good standing under all applicable laws;
- (e) that there is no litigation pending by or against Owner that would substantially impair its ability to perform its obligations contemplated by this Agreement.

Developer represents and warrants to the City:

- (a) that Developer intends to develop the Property in the manner contemplated in this Agreement;
- (b) that Developer has full power and authority to execute this Agreement and to bind the Property as herein provided;

(c) that the legal descriptions of the Property set forth herein and in the attached Exhibits are accurate and complete;

(d) that the officers of Developer executing this Agreement have been lawfully authorized to execute this Agreement on behalf of Developer and that Developer is lawfully organized and in good standing under all applicable laws;

(e) that there is no litigation pending by or against Developer that would substantially impair Developer's ability to perform Developer's obligations contemplated by this Agreement.

Section 43. Representations and Warranties of City. City represents and warrants to Owner and Developer:

(a) that the City Manager and Clerk of the City have been lawfully authorized by the City Council of the City to execute this Agreement on behalf of the City;

(b) that the City has given or caused to be given and published or caused to be published all notices required by law to be given or published in connection with this Agreement or any other action of the corporate authorities required to be taken as a precondition to execution of this Agreement or annexation of the Property, and that all public hearings required in connection with this Agreement and the annexation of the Property have been held;

(c) that there is no litigation pending by or against the City that would substantially impair its ability to perform its obligations contemplated by this Agreement.

ARTICLE XI MISCELLANEOUS PROVISIONS

Section. 44. Continuation of Current Uses. If applicable, the Property is currently being used for the purposes set forth in Schedule 2 (Special Terms). In reviewing this Agreement, the City has given due consideration to the continuation of such current uses. Accordingly, and notwithstanding any provisions of the City Code, the Zoning Ordinance, or any other code, ordinance or regulation, now in effect or adopted during the Term of this Agreement, and notwithstanding the City's subsequent zoning of the Property pursuant to the terms hereof, the current uses of the Property shall be permitted to continue.

Section 45. Amendment. This Agreement, and the exhibits attached hereto, may be amended only by the mutual consent of the Parties, by adoption of an ordinance by City approving said amendment as provided by law, and by the execution of a written amendment by the Parties or their successors in interest.

Section 46. Severability. If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such

invalidity shall not affect the application or validity of any other provision, covenant or portion of this Agreement, and to that end, all provisions, covenants, agreements and portions of this Agreement are declared to be severable. If for any reason the annexation or zoning of the Tract is ruled invalid, in whole or in part, the City Council, as soon as possible, shall take such actions (including the holding of such public hearings and the adoption of such ordinances and resolutions) as may be necessary to give effect to the spirit and intent of this Agreement and the objectives of the Parties, as disclosed by this Agreement, provided that the foregoing shall be undertaken at the expense of Developer.

Section 47. Entire Agreement. This Agreement sets forth and fully integrates all agreements, understandings and covenants between the Parties with respect to the subject matter hereof, and is intended to supersede and discharge all prior oral or written or contemporaneous oral agreements, negotiations and understandings between the Parties.

Section 48. Time of Essence. Time is of the essence of this Agreement and of each and every provision hereof.

**SCHEDULE 2 (SPECIAL TERMS)
(INDUSTRIAL/COMMERCIAL)**

- Section 1. Term of Agreement:** 20 years.
- Section 2. Deadline for Annexation of Property:** 120 days following approval of Agreement by City Council.
- Section 3. Zoning of Property:** I-3
- Section 4. Period of Freezing City Code Provisions:** 3 years.
- Section 5. Period of Freezing City Fees and Charges:** See Exhibit C.
- Section 7. Deposit for Fees, Costs and Expenses:** See Exhibit C.
- Section 16. Special Water Provisions:**
- Section 17. Special Sanitary Sewer Provisions:**
- Section 18. Special Electric, Fiberoptic and Street Light Provisions:**
- Section 19. Recapture Provisions (Utilities):**
- Improvements for which recapture applies:
- Estimated cost of improvements:
- Allocation Formula (e.g., linear footage, acreage)
- Amount Allocated to Owner of Property:
- Benefiting Properties:
- | Pin # | Owners | Amount Allocated |
|-------|--------|------------------|
|-------|--------|------------------|
- Map of Benefiting Properties and Improvements attached
- List of Legal Descriptions of Benefiting Properties attached
- Section 20. Special Interior Road Provisions:**
- Section 22. Traffic Light Provisions:**
- Intersection:
- Developer's Contribution:

Section 23. Perimeter and Offsite Road Improvement Provisions:

Section 24. Recapture Provisions (Roads):

Improvements for which recapture applies:

Estimated cost of improvements:

Allocation Formula (e.g., linear footage, acreage)

Amount Allocated to Owner of Property:

Benefiting Properties:

Pin #	Owners	Amount Allocated
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Map of Benefiting Properties and Improvements attached

List of Legal Descriptions of Benefiting Properties attached

Section 25. Stormwater Management Provisions:

Section 26. Stormwater Management Fee and Payment Provisions:

Fee Amount: \$19,000 (based upon 10 acres)

Payment Terms: Due upon annexation.

Section 27. Regional Stormwater Detention on the Property not required
 may be required

Section 46. Current Uses of the Property To Be Permitted to Continue:

Other Special Terms: The Parties shall enter into the Revenue Sharing Agreement attached to this Agreement as Exhibit E. The approval and execution of the Revenue Sharing Agreement is a requirement for the terms of this Annexation Agreement to be legally binding. Should either party refuse to execute the Revenue Sharing Agreement, any and all waiver of fees and variations from the code shall not be granted to Owner and Developer.

Exhibit A

Legal Description

Parcel Identification Number: 25-32-400-022

Part of the Southeast Quarter of Section 32, Township 40 North, Range 2 East of the Third Principal Meridian, Ogle County, Illinois; Commencing at the Southwest corner of the premises conveyed in a Corrective Trustee's Deed, Document No. 02007738 as recorded in the Ogle County Recorder's Office, said corner being North 88 degrees 27 minutes 21 seconds East (assumed bearing) a distance of 1924.40 feet from the Southwest corner of said Southeast Quarter of Section 32; thence North 01 degrees 02 minutes 30 seconds West on and along the West line of said premises so conveyed, a distance of 734.58 feet to the Point of Beginning of the hereon described tract; thence South 88 degrees 27 minutes 21 seconds West, a distance of 1,887.04 feet to the East right of way of Steward Road; thence North 01 degrees 14 minutes 52 seconds West on and along last named line, a distance of 230.79 feet; thence North 88 degrees 27 minutes 21 seconds East, a distance of 1,887.87 feet to the West line of said premises so conveyed; thence South 01 degrees 02 minutes 30 seconds East on and along last named line, a distance of 230.80 feet to the Point of Beginning, containing 10.00 Acres, more or less.

Exhibit B Concept Plan

Exhibit C Fee Schedule for the City

Estimated Reimbursable Expenses

The costs identified herein are estimates and Owner and/or Owner shall be solely responsible for all actual costs incurred with the development and construction of the subject Property. The City has agreed to waive the costs set forth herein; however, should the City ever purchase the Property from GREDCO, said fees shall be deducted from the purchase price paid by the City to GREDCO. Should GREDCO sell the property to a party other than the City, GREDCO shall be required to pay these costs before or at the time of closing of the Property.

1. Professional fees:
 - a. Legal fees. \$15,000

2. Costs or other expenses related to the Property incurred with the development of this property, the negotiation and approval of this Agreement, and related matters:
 - a. Planning and engineering, consultant fees, staff time, review fees and expenses. \$15,000
 - b. Sewer and Water improvements (including preliminary and construction engineering and lift station to accommodate the development) \$
 - c. Electrical Infrastructure Improvement (includes transformer, boring costs for distribution line, distribution wire, and materials) \$
 - d. Fiber Optics \$

3. Transactional and recording costs: \$2,500

Exhibit D Transferee Assumption Agreement

This document was prepared by,

Dominick L. Lanzito
Peterson, Johnson & Murray – Chicago LLC
200 West Adams – Ste. 2125
Chicago, Illinois 60606

and following recording should
be returned to:

City of Rochelle
420 North 6th Street
Rochelle, Illinois 61068
Attn: City Manager

TRANSFEREE ASSUMPTION AGREEMENT

THIS AGREEMENT, made as of this ____ day of _____, 2021, by, between and among Greater Rochelle Economic Development Corporation, an Illinois not for profit Corporation (“Owner”), _____, an _____ (“Transferee”) and the CITY OF ROCHELLE, Illinois, an Illinois municipal corporation (“City”),

WITNESSETH:

WHEREAS, pursuant to that certain _____ Agreement dated _____, 20__, the Transferee agreed to purchase from the Owner certain real property situated in Ogle County, Illinois and legally described in Exhibit A attached hereto and by this reference incorporated herein and made a part hereof (“Property”); and

WHEREAS, following the conveyance of the Property by the Owner, the Transferee will be the legal owner of the Property; and

WHEREAS, the Owner and Transferee represent and warrant that Transferee is controlled by the _____; and

WHEREAS, as a condition to the conveyance of the Property by the Owner, the Owner and the City require that the Transferee agree to comply with all the terms, requirements, and obligations relating to the Property as set forth in Annexation and Development Agreement dated _____, 2021, and recorded in the Office of the Ogle County Recorder on _____, as Document No. _____, as well as all permits and approvals granted as a result thereof (collectively, the “Annexation Agreement”);

NOW, THEREFORE, in consideration of the agreement of the Owner to convey the Property to the Transferee and of the City to accept the transfer of obligations as provided herein and to grant the releases granted herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by, between, and among the City, the Owner, and the Transferee as follows:

1. Recitals. The foregoing recitals are by this reference incorporated herein and made a part hereof as substantive provisions of this Agreement.

2. Assumption of Obligations. The Transferee, on its behalf and on behalf of its successors, assigns, heirs, executors and managers, hereby agrees, at its sole cost and expense, to comply with all of the terms, requirements, and obligations of the Annexation Agreement, including all exhibits and attachments thereto, with respect to the Property.

3. Assurances of Financial Ability. In light of the representation and warranty of the Owner and Transferee regarding their controlling interests, the City shall not require evidence of financial ability as a precondition of the execution of this Agreement.

4. Payment of City Fees and Costs. In addition to any other costs, payments, fees, charges, contributions, or dedications required by this Agreement, the Annexation Agreement or by applicable City codes, ordinances, resolutions, rules, or regulations, the Transferee shall pay to the City on or before the date due therefor, all legal, engineering, and other consulting or administrative fees, costs and expenses incurred in connection with the negotiation, preparation, consideration, and review of this Agreement.

5. Acknowledgment and Release of Transferor. The City hereby acknowledges its agreement to the Transferee's assumption of the obligation to comply with the terms, requirements and obligations of the Annexation Agreement, including all exhibits and attachments thereto, with respect to the Property. In addition, the City hereby releases the Owner from any personal liability for failure to comply with the terms, requirements, obligations, and provisions of the Annexation Agreement pertaining to the Property. Nothing in this Agreement shall alter or otherwise amend the terms, requirements, obligations, and provisions of the Annexation Agreement.

[Signature pages to follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

CITY OF ROCHELLE, an Illinois
municipal corporation (“City”)

**GREATER ROCHELLE ECONOMIC
DEVELOPMENT CORPORATION.**, an
Illinois not-for-profit Corporation
 (“Owner”)

By: _____
City Manager

By: _____

Attest: _____
City Clerk

Its: _____

_____**S, INC.**,
an _____ Corporation
 (“Transferee”)

By: _____

Its: _____

**EXHIBIT A TO TRANSFEREE ASSUMPTION AGREEMENT
LEGAL DESCRIPTION FOR:**

Parcel Identification Number: 25-32-400-022

Part of the Southeast Quarter of Section 32, Township 40 North, Range 2 East of the Third Principal Meridian, Ogle County, Illinois; Commencing at the Southwest corner of the premises conveyed in a Corrective Trustee's Deed, Document No. 02007738 as recorded in the Ogle County Recorder's Office, said corner being North 88 degrees 27 minutes 21 seconds East (assumed bearing) a distance of 1924.40 feet from the Southwest corner of said Southeast Quarter of Section 32; thence North 01 degrees 02 minutes 30 seconds West on and along the West line of said premises so conveyed, a distance of 734.58 feet to the Point of Beginning of the hereon described tract; thence South 88 degrees 27 minutes 21 seconds West, a distance of 1,887.04 feet to the East right of way of Steward Road; thence North 01 degrees 14 minutes 52 seconds West on and along last named line, a distance of 230.79 feet; thence North 88 degrees 27 minutes 21 seconds East, a distance of 1,887.87 feet to the West line of said premises so conveyed; thence South 01 degrees 02 minutes 30 seconds East on and along last named line, a distance of 230.80 feet to the Point of Beginning, containing 10.00 Acres, more or less.

EXHIBIT E
Revenue Sharing Agreement

REVENUE SHARING AGREEMENT

THIS AGREEMENT (the “Agreement”) entered this day of _____, 2021, by and between GREATER ROCHELLE ECONOMIC DEVELOPMENT CORPORATION, an Illinois not-for-profit corporation (hereinafter referred to as “GREDCO”), and the CITY OF ROCHELLE, an Illinois municipal corporation (hereinafter referred to as the “City of Rochelle” or as the “City”), collectively referred to as the “Parties” and each as a “Party.”

W I T N E S S E T H :

WHEREAS, the City of Rochelle owns and operates a railroad known as the City of Rochelle Railroad which has been assigned the designation of CIR from the American Railroad Association (hereinafter referred to as “CIR”); and

WHEREAS, GREDCO is a not-for-profit entity incorporated in the State of Illinois and is qualified under the Internal Revenue Code as a Section 501(c)(4) entity, and has been instrumental in developing industry and other business opportunities for the City of Rochelle utilizing and promoting the CIR; and

WHEREAS, the mission of GREDCO is to participate in, sponsor, and promote economic development for the City of Rochelle and its citizens, facilitated in significant part by GREDCO’s acquisition of land or options to acquire land for economic development involving the timely annexation of any such land into the corporate boundaries of the City of Rochelle; and

WHEREAS, GREDCO has annexed property consisting of approximately 10 acres, with Parcel Identification Number: 25-32-400-022 and legally described in Exhibit 1 (“Subject Property”), into the City’s corporate limits as of August 24, 2021, pursuant to an Annexation Agreement; and

WHEREAS, GREDCO intends to utilize the Subject Property for railroad related services and seeks to utilize CIR facilities for its new business operations; and

WHEREAS, GREDCO recognizes and acknowledges that without the investment of the City into CIR, GREDCO’s railroad related business operations would not be possible; and

WHEREAS, the GREDCO is desirous that the City continue its investment in CIR to facilitate economic opportunities for GREDCO; and

WHEREAS, the City of Rochelle and GREDCO agree it is in their respective best interests to enter into an agreement whereby the GREDCO will contribute a portion of revenues from the railroad related business located at the Subject Property.

NOW THEREFORE, it is agreed by and between the parties hereto as follows

1. The GREDCO shall pay to the City of Rochelle five percent (5%) of the annual revenues received by GREDCO from the railroad related business conducted on the Subject Property. "Annual revenue" is defined as the total of all amounts received by GREDCO during each fiscal year from the operation of the property that is the subject of the Annexation Agreement dated August ____, 2021.

2. The amount to be paid to the City of Rochelle shall be determined on an annual basis at the close of the fiscal year for GREDCO and divided into four equal payments to be paid to City of Rochelle quarterly on the last day of each fiscal quarter during the succeeding fiscal year. Payments to the City of Rochelle under this Agreement shall commence upon the commencement of railroad business operations on the property that is the subject of the Annexation Agreement.

3. The term of this agreement shall commence at the execution hereof and shall expire five (5) years after the commencement of railroad related operations at the property. This agreement may be renewed for up to two additional 5-year terms if agreed to by both parties no less than 90 days prior to the expiration of the initial term, or the expiration of any succeeding term if the agreement is extended. Such agreement must be in writing and notice shall be provided as set forth below.

4. Any amount paid to the City of Rochelle under this agreement shall be utilized by the City of Rochelle for the continued development of the railroad system, CIR, and other economic development purposes that benefit the City of Rochelle and the citizens of the City of Rochelle. GREDCO shall provide an accounting for all funds to be paid to the City pursuant to this Agreement so that the City of Rochelle. Additionally, GREDCO will provide the City of Rochelle's City Manager with all records and documents related to the calculation of the Annual Revenue.

5. Nothing in this Agreement shall impact or adversely affect future agreements between GREDCO and the City of Rochelle (by way of example but without limitation, transactions under which GREDCO acquires land for future railroad right-of-way or other economic development purposes consistent with its mission and sells such right-of-way to the City of Rochelle), except as otherwise stated herein.

6. Each party shall comply with the rules and regulations promulgated by any government or other lawful authority governing railroads.

5. Representations and Warranties of GREDCO. GREDCO represents and warrants to the City:

a. that GREDCO has full power and authority to execute this Agreement and to bind the GREDCO as herein provided;

b. that the officers of GREDCO executing this Agreement have been lawfully authorized to execute this Agreement on behalf of GREDCO and that GREDCO is lawfully organized and in good standing under all applicable laws;

c. that there is no litigation pending by or against GREDCO that would substantially impair its ability to perform its obligations contemplated by this Agreement.

9. Representations and Warranties of City. The City represents and warrants to GREDCO:

a. that the City Manager and Clerk of the City have been lawfully authorized by the City Council of the City to execute this Agreement on behalf of the City;

b. that the City has given or caused to be given and published or caused to be published all notices required by law to be given or published in connection with this Agreement;

c. that there is no litigation pending by or against the City that would substantially impair its ability to perform its obligations contemplated by this Agreement.

9. Any notice required or permitted hereunder shall be personally delivered or sent by certified mail, postage fully prepaid, and return receipt requested, to the parties at the following addresses:

To City of Rochelle:	City of Rochelle 420 N. 6th St. Rochelle, IL 61068 Attn: City Manager
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To GREDCO:	GREDCO 420 N. 6th Street Rochelle, IL 61068 Attn: GREDCO President
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or at such other address as the respective parties may from time to time give notice of. Notice shall be effective when personally delivered or, if mailed, when received, refused or returned by the Postal Service as undeliverable.

10. Nothing contained in this Agreement shall be deemed or construed as creating a joint venture, partnership, agency, employment or fiduciary relationship between the Parties. Neither Party nor its agents have any authority of any kind to bind the other Party in any respect whatsoever without the express written consent to be bound.

11. Indemnity. GREDCO shall hold harmless, defend and indemnify the City, the Corporate Authorities, the Plan Commission, and all City elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from any and all claims (except for willful misconduct) that may be asserted at any time against any of them in connection with (i) the City's participation in this Agreement (except for a claim by GREDCO that the City of Rochelle has failed to comply with its obligations under this Agreement; and (ii) any development, construction, maintenance, or any activity occurring as a result of any public development, purchase of land, or project undertaken by GREDCO.

12. Defense Expense. GREDCO shall, and does hereby agree to, pay all expenses, including without limitation legal fees and administrative expenses, incurred by the City of Rochelle in defending any and all of the claims resulting from or related to this Agreement, except for a claim by GREDCO that the City of Rochelle has failed to comply with its obligations under this Agreement.

13. Amendment. This Agreement may be amended only by the mutual consent of the Parties, by adoption of an ordinance by City approving said amendment as provided by law, and by the execution of a written amendment by the Parties or their successors in interest.

14. Severability. If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provision, covenant or portion of this Agreement, and to that end, all provisions, covenants, agreements and portions of this Agreement are declared to be severable.

15. Entire Agreement. This Agreement sets forth and fully integrates all agreements, understandings and covenants between the Parties with respect to the subject matter hereof and is intended to supersede and discharge all prior oral or written or contemporaneous oral agreements, negotiations and understandings between the Parties.

16. Remedies Available; No Election. Subject to the indemnity provisions of this Agreement, upon a breach of this Agreement, any of the parties, in any court of competent jurisdiction, by an action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained, may be awarded damages for failure of performance or both. No action taken by any party hereto pursuant to the provisions of this Article or pursuant to the provision of any other Article of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and non-exclusive of any other remedy either set forth herein or available to any party at law or in equity.

17. Notice and Opportunity to Cure. In the event of a material breach of this Agreement (other than non-payment of sums owed), the Parties agree that the party alleged to be in breach shall have thirty (30) days after written notice of said breach to

correct the same prior to the non-breaching party's seeking of any remedy provided for herein, (provided, however, that said thirty (30) day period shall be extended if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same).

18. Failure to Cure. If any of the Parties shall fail to perform any of its obligations hereunder (other than non-payment of sums owed), and the party affected by such default shall have given written notice of such default to the defaulting party, and such defaulting party shall have failed to cure such default within thirty (30) days of such default notice (provided, however, that said thirty (30) day period shall be extended if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same), then, in addition to any and all other remedies that may be available, either in law or equity, the party affected by such default shall have the right (but not the obligation) to take such action as in its reasonable discretion and judgment shall be necessary to cure such default. In such event, the defaulting party hereby agrees to pay and reimburse the party affected by such default for all reasonable costs and expenses (including attorney's fees and litigation expenses) incurred by it in connection with action taken to cure such default.

19. No Waiver. The failure of the Parties to insist upon the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

20. Time of Essence. Time is of the essence of this Agreement and of each and every provision hereof.

21. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed on their behalf, as of the _____ day of _____, 2021.

GREATER ROCHELLE ECONOMIC
DEVELOPMENT CORPORATION, an
Illinois not-for-profit corporation

By _____
Its Authorized Officer

CITY OF ROCHELLE, an Illinois
municipal corporation

By: _____
City Manager

Attest: _____
City Clerk

EXHIBIT 1
Legal Description

Part of the Southeast Quarter of Section 32, Township 40 North, Range 2 East of the Third Principal Meridian, Ogle County, Illinois; Commencing at the Southwest corner of the premises conveyed in a Corrective Trustee's Deed, Document No. 02007738 as recorded in the Ogle County Recorder's Office, said corner being North 88 degrees 27 minutes 21 seconds East (assumed bearing) a distance of 1924.40 feet from the Southwest corner of said Southeast Quarter of Section 32; thence North 01 degrees 02 minutes 30 seconds West on and along the West line of said premises so conveyed, a distance of 734.58 feet to the Point of Beginning of the hereon described tract; thence South 88 degrees 27 minutes 21 seconds West, a distance of 1,887.04 feet to the East right of way of Steward Road; thence North 01 degrees 14 minutes 52 seconds West on and along last named line, a distance of 230.79 feet; thence North 88 degrees 27 minutes 21 seconds East, a distance of 1,887.87 feet to the West line of said premises so conveyed; thence South 01 degrees 02 minutes 30 seconds East on and along last named line, a distance of 230.80 feet to the Point of Beginning, containing 10.00 Acres, more or less.