

**DEVELOPMENT AGREEMENT FOR CONSTRUCTION OF THE TRANSLOAD  
YARD EXPANSION AND CONTAINER STORAGE FACILITY**

This Development Agreement for construction of the transload yard expansion and container storage facility (the "Agreement") is made and entered into by and between the Greater Rochelle Economic Development Corporation ("GREDCO"), an Illinois not-for-profit corporation, and the City of Rochelle (the "City"), an Illinois municipality, collectively referred to as "the Parties, and this is based on the following recitals:

**RECITALS**

A. The City holds title to approximately 10 acres in the South One-Half of the Southeast One-Quarter of Section 32, Township 40 North, Range 2 east of the Third Principal Meridian, Dement Township, Ogle County, Illinois, aligned immediately south of an adjacent to the tract defined by real estate permanent index number ("PIN") 25-32-400-022 and lying immediately north of an adjacent tract defined by PIN 25-32-400-017 (the "City Tract" or the "Transload Yard").

B. GREDCO holds the title to the approximately 10 acres in the South One-Half of the Southeast One-Quarter of section 32, Township 40 North, Range 2 East of the Third Principal Meridian, Dement Township, Ogle County, Illinois, defined by PIN 25-32-400-022 (the "GREGO Tract" or the "Container Storage Facility").

C. The City proposes to expand the existing transload yard expansion on the City Tract, and GREDCO proposes to develop an intermodal container storage area for rail containers on the GREDCO Tract.

D. The City issued a Request for Proposal ("RFP") and solicited bids for the expansion of the Transload Yard on the City Tract and the construction of the Container Storage Facility on the GREDCO Tract.

E. The Parties agree that Porter Brothers Construction, Inc.'s response to the RFP, attached hereto as Exhibit 2, in the amount of \$993,008.88 for the City's portion of the improvements and the alternate bid of \$664,146.28 for GREDCO's portion of the improvements, for a combined bid of \$1,657,155.16, was the lowest proposal that met all of the specifications for the aforementioned improvements and is most advantageous to the City and GREDCO.

F. The City also sought engineering and construction management services from Fehr Graham, a local engineering firm familiar with the design and construction of railroad related facilities.

G. The proposal of Fehr Graham for professional services is in the amount of \$149,000.00, attached hereto as Exhibit 2.

H. The City and GREDCO understand and agree that it is more cost effective to have one contractor and one construction management firm for the expansion of the existing transload

yard on the City Tract and to develop an intermodal container storage area for rail containers on the GREDCO Tract.

I. The purpose of the Agreement is to memorialize the division of the costs between the Parties that will be incurred as a result of the expansion of the existing transload yard expansion on the City Tract and to develop an intermodal container storage area for rail containers on the GREDCO Tract and to establish an escrow account, funded by GREDCO as stated herein, which can be drawn upon to pay GREDCO's portion of the construction and professional services.

J. The City and GREDCO agree to cooperate with regard to the development and usage of the proposed transload yard expansion.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the City and GREDCO agree as follows:

1. Recitals. The foregoing recitals are hereby incorporated herein as representations and undertakings by the City and GREDCO.

2. Payment of Development costs. The City and GREDCO agree to pay for their respective portion of the construction costs as identified in the proposal Porter Brothers Construction, Inc.'s, with the City's portion of the construction costs in the amount of \$993,008.88 and \$664,146.28 for GREDCO's portion of the improvements.

3. Payment of Professional Services costs. GREDCO agrees to pay \$59,600 of the total costs of the proposal of Fehr Graham, which represents GREDCO's pro rata percentage of the total construction costs.

4. Escrow Account. GREDCO agrees to execute an Escrow Agreement, attached hereto as Exhibit 3, and fund the escrow account for GREDCO's payments due in Paragraphs 2 and 3 herein, as follows:

- A. GREDCO shall place 50% of the payments due in Paragraphs 2 and 3 or \$361,873.14, prior to the commencement of construction.
- B. GREDCO shall place the remaining 50% of the payments due in Paragraphs 2 and 3 or \$361,873.14, within 60 days following the commencement of construction.

GREDCO must fund all change orders beyond the payments due in Paragraphs 2 and 3, as the contractor or construction supervisor's invoices are due for said change orders. GREDCO agrees that the City may place a lien on the GREDCO Tract for any unfunded portion of the escrow account and that such lien will accrue interest at a rate of 1.5% per month, until such time as the lien is paid in total.

5. Mutual Indemnification. Each of the City and GREDCO agrees to hold the other harmless, and to indemnify and protect it from and against all costs (including court costs), fees

(including attorney's fees), liabilities, demands and expenses with respect to those matters for which each is responsible pursuant to the terms and conditions of this Agreement.

6. Multiple Counterparts. This Agreement should be executed in multiple counterparts, such counterparts shall collectively be considered one Agreement.

Dated as of this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

THE CITY OF ROCHELLE, an Illinois  
Municipality

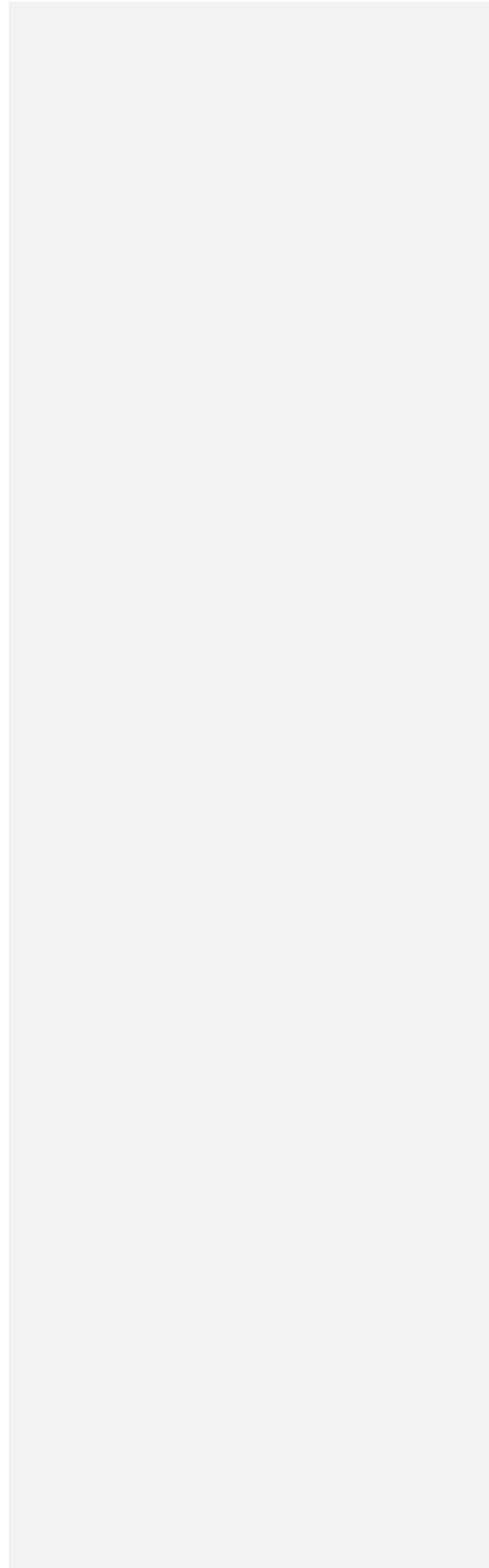
GREATER ROCHELLE ECONOMIC  
DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
Jeff Fiegenschuh, City Manager

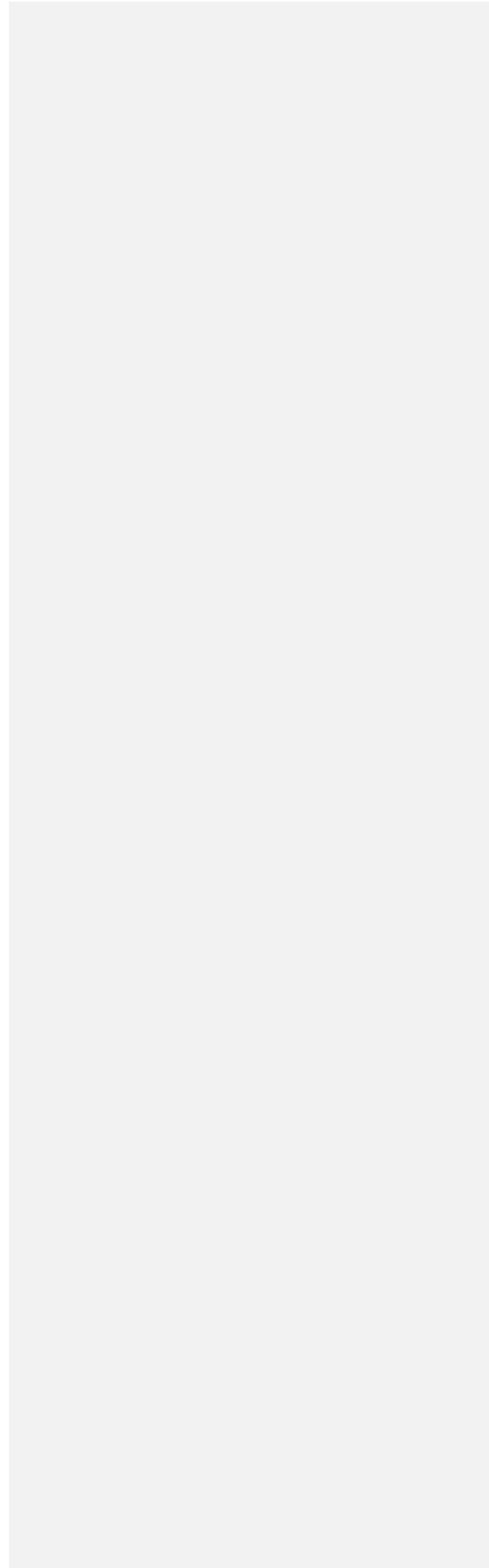
By: \_\_\_\_\_  
Richard Ohlinger, President

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**EXHIBIT 1**



**EXHIBIT 2**



**EXHIBIT 3  
ESCROW AGREEMENT**

This Agreement is by and between Greater Rochelle Economic Development Corporation, an Illinois corporation, State of Illinois (“DEVELOPER”) and the CITY OF ROCHELLE, an Illinois municipal corporation, Ogle, State of Illinois (“CITY”) for the development of the property legally described as approximately 10 acres in the South One-Half of the Southeast One-Quarter of section 32, Township 40 North, Range 2 East of the Third Principal Meridian, Dement Township, Ogle County, Illinois, defined by PIN 25-32-400-022 (the “Property”).

1. DEVELOPER shall place a sum of Seven Hundred Twenty-Three Thousand Seven Hundred Forty-six and 28/100 Dollars (\$723,746.28.) (the “Escrow”) into an Escrow Account to be held by Central Bank, as (“Escrowee”), to be used as surety for improvements improvements on and at the Property. The payments to the Escrow shall be as follows:

- A. GREDCO shall deposit 50% of the total Escrow or \$361,873.14, prior to the commencement of construction on the Property.
- B. GREDCO shall deposit the remaining 50% of the total Escrow or \$361,873.14, within 60 days following the commencement of construction on the Property.

2. CITY, through Fehr Graham, shall provide to DEVELOPER any and all documentation reasonably requested to demonstrate the completion of the improvements, or other construction milestones, agreed upon by the CITY and DEVELOPER on and at the Property prior to any disbursement of the Escrow. **IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ESCROWEE SHALL MAKE NO DISBURSEMENTS TO THE CITY WITHOUT THE DEVELOPER’S EXPRESS WRITTEN DIRECTION.** Within ten (10) days of the receipt of written notice from the DEVELOPER that the improvements on and at the Property as above described, has been satisfactorily completed, Escrowee shall disburse to CITY from the Escrow any necessary sums due. Escrowee shall be entitled to rely on the correctness of the written notice presented to it by the DEVELOPER and shall be held harmless by the parties hereto with respect to Escrowee’s disbursement of the Escrow based on said written notice by the DEVELOPER.

3. Said Escrow shall be held by Escrowee for a period of not more than one (1) year, beginning on September 12, 2022. Additionally, ten (10%) percent of the total funds deposited will be withheld, pending the final dedication and acceptance of all improvements, until Fehr Graham obtains all necessary “Waivers of Lien” from the contractor and determines that all work has been satisfactorily completed.

4. Time is of the essence of this Agreement. In any action with respect to this Agreement, the Parties are free to pursue any legal remedies at law or in equity and the prevailing party in litigation shall be entitled to collect reasonable attorney fees and costs from the non-prevailing party as ordered by a court of competent jurisdiction.

**Commented [DL1]:** Need to insert a date, based upon estimated construction start date.

Dated: **September 12, 2022**

DEVELOPER: **GREATER ROCHELLE** CITY: **CITY OF ROCHELLE**  
**ECONOMIC DEVELOPMENT**  
**CORPORATION**

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

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

