

AGREEMENT NO. 2018-04

INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OF FRANKLIN, THE CITY OF WEST FRANKFORT, THE CITY OF BENTON, AND THE VILLAGE OF WEST CITY

This Intergovernmental Agreement (hereinafter referred to as the "Agreement") is entered into by and between the County of Franklin, a unit of local government in the State of Illinois, acting through its County Board (hereinafter referred to as the "County") and the City of West Frankfort, an Illinois municipal corporation, acting through its Mayor and City Council (hereinafter referred to as the "West Frankfort"); the City of Benton, an Illinois municipal corporation, acting through its Mayor and City Council (hereinafter referred to as the "Benton"); and the Village of West City, an Illinois municipal corporation, acting through its President and Village Board (hereinafter referred to as the "West City"), (hereinafter referred to collectively as the "Municipalities"):

WITNESSETH:

WHEREAS, the County and the Municipalities are units of government as provided by Article VII, Section 10 of the Illinois Constitution and the Intergovernmental Cooperation Act, 5 ILCS 220/1 et. seq., and therefore have authority to enter into Intergovernmental Agreements with other governmental bodies for the joint exercise of powers, privileges and authorities; and,

WHEREAS, pursuant to 20 ILCS 655/1 et. seq. (formerly Ill. Rev. Stat. 1991, ch. 67 1/2, Section 601 et. seq.) (the "Act"), the State of Illinois authorized the creation of enterprise zones, together with certain incentive programs; and,

WHEREAS, pursuant to the Act, the County of and Municipalities created and amended, from time to time, the Original Benton/Franklin County Enterprise Zone & West Frankfort Enterprise Zone, which included certain real estate located in the County and Municipalities; and,

WHEREAS, in connection with the creation of the Original Benton/Franklin County Enterprise Zone & West Frankfort Enterprise Zone, the County and Municipalities adopted certain real estate tax abatement incentives, retail sales tax exemption incentives, and other incentives authorized under the Act, that promoted economic growth, encouraged economic development, created and retained jobs, and reduced unemployment in the area of the County and Municipalities; and,

WHEREAS, the Original Benton/Franklin County Enterprise Zone & West Frankfort Enterprise Zone will terminate on March 1, 2020 and July 1, 2018 and pursuant to the Act; and,

WHEREAS, the Original Benton/Franklin County Enterprise Zone & West Frankfort Enterprise Zone accomplished, in part, the public purpose of promoting economic growth of the community and protecting the health, safety and welfare of the

community by encouraging public and private investment, promoting job creation and job retention, and conserving the health, safety and welfare of the community; and,

WHEREAS, there continue to be certain areas in the County that need the particular attention of government, business and labor to attract private sector investments and directly aid the entire region and the residents thereof; and,

WHEREAS, a disproportionate number of residents within the County and Municipalities, for several years have suffered pervasive poverty, unemployment and economic distress, related to the prolonged national recession, shifts of industries throughout the County, and a variety of other economic factors negatively affecting the areas of the County and Municipalities; and,

WHEREAS, the members of this duly constituted legislative body are cognizant of the distressed conditions existing within this area and desire to alleviate these distressed conditions, to build upon the past public and private investments and accomplishments arising out of the Original Benton/Franklin County Enterprise Zone & West Frankfort Enterprise Zone, to further pursue the public purpose of promoting economic and employment growth of the community and to protect the health, safety and welfare of the community; and,

WHEREAS, the Municipalities have indicated their willingness and desire to cooperate with the County in designating portions of their municipalities as well as unincorporated areas in the County as an Enterprise Zone; and,

WHEREAS, pursuant to Public Act 97-905, the State of Illinois amended the Act to provide for the creation of enterprise zones after the natural termination of an enterprise zone created earlier under the Act, and in connection therewith, the County and the Municipalities may apply with and obtain designation from the State of Illinois Department of Commerce and Economic Opportunity (the "Department" or "DCEO") to establish an Enterprise Zone encompassing a part of the unincorporated area of the County and a part of the Municipalities; and,

WHEREAS, pursuant to this Agreement, the County and the Municipalities authorize the filing of an application with the Department to designate, enact and create the Franklin County I-57 Enterprise Zone (hereinafter referred to as the "Enterprise Zone Application") under the provisions of the Act, to create the Franklin County I-57 Enterprise Zone (the "Enterprise Zone") to include certain real estate within the County and the Municipalities for the purpose of encouraging economic development, job creation and job retention in the region, and to conserve the health, safety and welfare of the community, said real estate being more fully described in the attached Exhibit B (the "Enterprise Zone Area"); and,

WHEREAS, the County and the Municipalities hereby find that the creation of the Enterprise Zone as set forth herein is necessary for the continued economic growth and job creation of the region, and is necessary to promote and conserve the public health, safety and welfare of the region; and,

WHEREAS, the County and the Municipalities find that the designation of the Enterprise Zone pursuant to the Act and this Agreement depend upon community support, cooperation and the offering of the benefits of the Enterprise Zone; and,

WHEREAS, the County and Municipalities desire to memorialize their respective agreement for the creation, designation, and development of the Enterprise Zone, all as more fully stated herein.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter made, the recitals of fact herein above set forth, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

SECTION 1: Incorporation: The findings and recitals made in the prefatory portion of this Agreement are hereby adopted by the County and the Municipalities.

SECTION 2: Establishment of Enterprise Zone: Subject to the certification and approval of the Department, the County and the Municipalities, in a joint exercise of their powers pursuant to the Intergovernmental Cooperation Act do hereby establish an enterprise zone under the Act encompassing the Enterprise Zone Area, as shown in Exhibit A, and as legally described in Exhibit B.

SECTION 3: Designation of Enterprise Zone: The Enterprise Zone Area described in Exhibit B is hereby designated as the Franklin County I-57 Enterprise Zone, subject to the certification and approval of the Department.

SECTION 4: Declarations to the Department: The County and the Municipalities hereby declare and further certify that:

- (a) The Enterprise Zone Area is qualified for designation as an enterprise zone pursuant to the Act; and,
- (b) Pursuant to 20 ILCS 655/4 (a) & (e), the Enterprise Zone Area is a contiguous area comprised of part of the unincorporated areas of Franklin County, Illinois and a part of the Municipalities, and is bound by a solid, clearly-defined, continuous boundary, provided that the Enterprise Zone Area may exclude wholly surrounded territory within its boundaries; and,
- (c) Pursuant to 20 ILCS 655/4 (b), the Enterprise Zone Area comprises a minimum of one-half (1/2) square mile and not more than fifteen (15) square miles in total area, and any connecting strips are not less than three (3) feet nor more than ten (10) feet in width; and,
- (d) The Enterprise Zone Area addresses a reasonable need to encompass portions of the County and the Municipalities; and,
- (e) The Enterprise Zone Area meets the requirements of 20 ILCS 655/4 (f) in that the Enterprise Zone Area satisfies at least three (3) of the ten (10) criteria

established by the Department as set forth in Exhibit C.

SECTION 5: Term: Pursuant to the Act and subject to the certification of the Department, the Franklin County I-57 Enterprise Zone shall be and become effective for a period of fifteen (15) calendar years beginning on January 1, 2020 and ending December 31, 2035, unless sooner rescinded or as otherwise amended, on the date that the Enterprise Zone Area is designated an enterprise zone by the Department, in accordance with law.

SECTION 6: Enterprise Zone Management Organization: Upon designation as an enterprise zone by the Department, a Management Organization comprised of the Chairman of the Franklin County Board and the Mayors of the City of West Frankfort, the City of Benton, and the Village of West City, will be formed. In the event of a tie, the senior member of the Rend Lake Conservancy District from Franklin County, Illinois appointed by Franklin County shall have the authority to cast a vote only to break the tie. This Management Organization will be the governing body of the Enterprise Zone and will be responsible for all decisions within the Enterprise Zone. The County Board Chairman will be the Chairman of the Management Organization. Decisions will be made in the following manner:

- (a) The Chairman of the Management Organization or any member may bring matters eligible for a vote to the Management Organization; and,
- (b) Each member of the Management Organization will have an equal vote;
- (c) In the event of a tie the senior member of the Rend Lake Conservancy District from Franklin County, Illinois appointed by Franklin County shall have the authority to cast a vote only to break the tie;
- (d) The Zone Administrator will be the individual who will be responsible for the day-to-day implementations within the Enterprise Zone and will be the liaison between the Management Organization, the Economic Development Committee, and DCEO.

SECTION 7: Enterprise Zone Administrator: The position of "Zone Administrator" is hereby created. Upon designation as an enterprise zone by the Department, the Management Organization shall appoint an administrator for the Franklin County I-57 Enterprise Zone (the "Zone Administrator"), who shall be an employee or officer of the members of the Management Organization. The Zone Administrator shall be responsible for the administration of the Franklin County I-57 Enterprise Zone, including the implementation of this Agreement and compliance with the Act and applicable laws, regulations and policies of the Department; shall have those powers and duties as set forth in the Act; and shall:

- (a) Supervise the implementation of the provisions of this Agreement and the Illinois Enterprise Zone Act.
- (b) Act as a liaison between the County, the Municipalities, the Department, the

Illinois Department of Revenue (the "IDOR"); and other state, federal and local agencies, whether public or private.

- (c) Conduct an ongoing evaluation of the Enterprise Zone program and submit such evaluative reports on at least an annual basis to the Management Organization.
- (d) Promote the coordination of other relevant programs, including, but not limited to, housing, community and economic development, small business, financial assistance and employment training within the Enterprise Zone.
- (e) Have the authority to appoint personnel as appropriate to assure the smooth operation of the Enterprise Zone subject to approval by the Management Organization.
- (f) Develop and recommend a comprehensive planning program for the Enterprise Zone.
- (g) Establish and chair an Economic Development Committee that will serve as the primary technical and professional vehicle for triggering the implementation of the Enterprise Zone program objectives (if designated by Management Organization).
- (h) Examine and recommend local incentives, benefits and programs to accomplish stated objectives, to stimulate economic activity in the Enterprise Zone and to address impediments to capital investments.
- (i) Develop and analyze social, physical and economic data regarding population trends; labor force; land use patterns; size, type, capacity and status of existing commercial, industrial and manufacturing facilities within the Enterprise Zone; infrastructure availability and condition, and other factors pertaining the community planning; and, to recommend planning-related actions.
- (j) Recommend necessary legislative and administrative controls for guiding Enterprise Zone development, including planned capital improvements.
- (k) Review supportive planning studies and reports to insure technical proficiency.
- (l) Coordinate planning activities and program implementation with other county and/or city or village departments and department programs.
- (m) Collect and analyze data and submit reports required by the Department on a timely basis.
- (n) Act as program manager responsible for the Enterprise Zone's day-to-day operations.
- (o) Have other such duties as specified by either the County Board Chairman or the Management Organization.

The Zone Administrator shall be responsible for the duties and tasks listed above. To accomplish these duties and tasks, the Zone Administrator, with the approval of the Management Organization, may appoint an Assistant Zone Administrator, and may receive technical and professional support from professionals as approved by the Management Organization. The operating costs of the Management Organization and the Zone Administrator shall be paid by the County and the Municipalities on a pro rata basis.

SECTION 8: Economic Development Committee: The Economic Development Committee will be made up of members of the Management Organization unless otherwise determined by the Management Organization. The following activities have been identified as the initial program of work for the Economic Development Committee:

- (a) To identify available sites for locating new businesses and prepare documentation with specifics on each site.
- (b) To identify vacant and underused buildings available for business and industrial use and prepare documentation with specifics on each building.
- (c) To market available sites and buildings to attract new and/or induce expansion of business and industry within the Enterprise Zone.
- (d) To work with area and state organizations to promote tourism in Franklin County.
- (e) To encourage modifications in county, city and village zoning and building standards as appropriate to further the purposes of the Enterprise Zone plan.
- (f) To examine and recommend local incentives and programs to accomplish Enterprise Zone program objectives.
- (g) To hold educational forums and programs for Enterprise Zone businesses and residents to explain and promote program benefits and incentives.
- (h) To coordinate Enterprise Zone development planning and implementation with other relevant programs, including, but not limited to, housing, community and economic development, small business, financial assistance and employment training within the Enterprise Zone.
- (i) To coordinate with business and industry to identify State regulations or restrictions that adversely affect economic development within the Enterprise Zone and relay this information to the DCEO to aid in easing the regulations and restrictions.
- (j) To coordinate available and future economic development incentives within the Enterprise Zone by "networking" with the professionals, developers and realtors and maintaining contact with previous plant locations as well as prospects.
- (k) To assist businesses and Enterprise Zone residents in receiving available local,

State or Federal economic development incentives and benefits.

- (l) To participate in the development and implementation of a business retention program.

SECTION 9: Incentives:

- (a) State Enterprise Zone Incentives: The County and Municipalities authorize the extension and utilization of any and all state incentives, tax exemptions and other inducements authorized under applicable Illinois law, the Act and/or the rules and regulations of the Department or other applicable state agency by and for all commercial, industrial and manufacturing projects located within the Enterprise Zone Area. If the term of any state incentive, tax exemption or other inducement authorized under applicable Illinois law, the Act and/or the rules and regulations of the Department or other applicable state agency has not expired as of December 31, 2019 on any qualified commercial, industrial or manufacturing project located in the Original Benton/Franklin County Enterprise Zone & West Frankfort Enterprise Zone, then such state incentive, tax exemption and other inducement shall not terminate, but shall instead continue in full force and effect until the natural termination of such state incentive, tax exemption or other inducement authorized under applicable Illinois law, the Act and/or the rules and regulations of the Department or other applicable state agency.
- (b) Sales Tax: Pursuant to applicable law, the County and the Municipalities authorize each retailer in Illinois who makes a sale of building materials to be permanently affixed and incorporated into real estate located within the Enterprise Zone Area, as amended from time to time, by remodeling, reconstruction or new construction may deduct receipts from such sales when calculating the retail sales tax imposed by the State of Illinois under and pursuant to the Illinois Retailer's Occupation Tax Act. The deduction allowed herein shall be limited to and shall only apply to any remodeling, rehabilitation or new construction of a qualified commercial, industrial or manufacturing project or new construction of a residential development project consisting of a minimum of at least five residential units. For purposes of this Agreement, residential development projects shall consist of a single or multi-family residential units consisting of a total project minimum of at least five separate units, excluding manufactured and mobile home structures.
- (c) A claimant must comply with the following conditions:
 - 1) The claimant must obtain an Applicant I.D. Number from the IDOR website www.tax.illinois.gov.
 - 2) The claimant must file with the Zone Administrator the following information on the form provided by the Zone Administrator:
 - i. the name and address of the contractor(s), subcontractor or other entity(s);

- ii. the name and number of the enterprise zone;
 - iii. the name and location or address of the building project in the enterprise zone;
 - iv. the estimated amount of the exemption for the claimant or claimant's contractor, subcontractor or other entity for which a request for Exemption Certificate is made, based on a stated estimated average tax rate and the percentage of the contract that consists of building materials;
 - v. the period of time over which building materials for the project are expected to be purchased; and,
 - vi. other reasonable information as the Zone Administrator may require.
- 3) The Zone Administrator will then request (by providing the above information on the IDOR website) IDOR to issue an Enterprise Zone Building Materials Exemption Certificate for the claimant or claimant's contractor, subcontractor or other entity identified by the Zone Administrator.
- 4) IDOR shall issue the Enterprise Zone Building Materials Exemption Certificate directly to the claimant or claimant's contractor, subcontractor or other entity. IDOR shall also provide the Zone Administrator with a copy of each Exemption Certificate issued. This Exemption Certificate is the evidence from IDOR that the Exemption is applicable and secures the Exemption and related tax incentive savings to the claimant.
- 5) As to each vendor or seller of the building materials, the claimant or claimant's contractor, subcontractor or other entity must provide to the vendor/seller of the building material a completed IDOR Form EZ-1 containing the following information:
 - i. a statement that the building materials are being purchased for incorporation into real estate located in an Illinois enterprise zone;
 - ii. the location or address of the real estate into which the building materials will be incorporated;
 - iii. the name of the enterprise zone in which that real estate is located;
 - iv. a description of the building materials being purchased;
 - v. the purchaser's Enterprise Zone Building Materials Exemption Certificate number issued by IDOR;

vi. the purchaser's signature and date of purchase.

6) IDOR may deny any entity the Enterprise Zone Building Materials Exemption Certificate if such entity owes any tax liability to the State of Illinois.

(d) Property Tax Abatement: Each unit of local government authorized by applicable law to levy ad valorem taxes upon real estate and improvements thereon located in the Enterprise Zone Area may adopt an ordinance or resolution abating the ad valorem taxes subject to the following conditions:

- 1) The abatement of the ad valorem taxes shall be at the rate of 100% of the value of the improvements on new or improved commercial and industrial property for a period of two (2) years (year 1 and 2) and 75% of the value of the improvements on property in year 3, 50% in year 4 and 25% in year 5, beginning with the fiscal year in which the improvements are fully assessed.
- 2) The abatement shall apply only to the ad valorem taxes generated by an increase in assessed valuation resulting from the remodeling, rehabilitation or new construction of the improvements or projects for commercial, industrial or manufacturing use to the exclusion of residential property.
- 3) The abatement of real estate taxes shall not apply to any residential property development or property used for residential purposes.
- 4) The abatement shall apply for the assessment year in which the remodeling, rehabilitation or new construction of the improvements or projects are made, and the three assessment years immediately following the year in which the remodeling, rehabilitation or new construction of the improvements or projects are made.
- 5) The abatement of real estate taxes on any parcel shall not exceed the amount attributable to the construction of the improvements on the parcel of real estate, or the renovation or rehabilitation of existing improvements on such parcel of real estate.
- 6) While the abatement is in effect, all ad valorem taxes resulting from the equalized assessed valuation for such real property for that tax year immediately preceding the remodeling, rehabilitation or new construction of the improvements or projects for commercial, industrial or manufacturing use shall continue to be collected and shall not be abated.
- 7) Any real property located within the Enterprise Zone Area and also located within the boundaries of any tax increment finance redevelopment area duly and legally adopted by any unit of local government pursuant to applicable Illinois law shall not be eligible for any abatement authorized

hereunder.

- 8) If the term of any abatement of ad valorem taxes has not expired as of December 31, 2019 on any qualified commercial, industrial or manufacturing project located in the Original Benton/Franklin County Enterprise Zone & West Frankfort Enterprise Zone, then such abatement shall not terminate, but shall instead continue in full force and effect until the natural termination of such qualifying commercial, industrial or manufacturing project's abatement.

SECTION 10: Miscellaneous:

- (a) Merger: This Agreement shall constitute the entire agreement between the parties hereto. Any prior understandings, agreements, negotiations or representations of any kind preceding or subsequent to the date of this Agreement and not contained herein are hereby discharged and shall not be binding upon either party except to the extent incorporated in this Agreement pursuant to Paragraph (b) of this Section.
- (b) Modification of Agreement: Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding on the parties hereto only if evidenced in a writing signed by each party or an authorized representative of each party and attached to the Agreement as an additional Rider.
- (c) Governing Law: It is hereby expressly agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Illinois.
- (d) Severability and Infectious Invalidity: In the event a court of competent jurisdiction declares any particular provision of this Agreement to be invalid or unenforceable, the remaining provisions of this Agreement shall be construed to be valid and enforceable.
- (e) Titles of Paragraphs: Titles of several paragraphs, sections or articles of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any provision hereof.
- (f) Counterparts: This Agreement shall be executed in counterparts, each shall constitute one and the same instrument and shall be recognized as an original instrument.

The undersigned parties have caused this INTERGOVERNMENTAL AGREEMENT to be executed by their duly designated officials, as authorized in the Enterprise Zone Ordinance adopted by their respective governing bodies.

COUNTY OF FRANKLIN, ILLINOIS

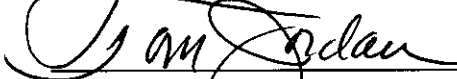


BY: Randall Crocker
TITLE: Chairman

Date: 6/25/2018

ATTEST: 
BY: County Clerk

CITY OF WEST FRANKFORT, IL



BY: Tom Jordan
TITLE: Mayor

Date: 7/6/18

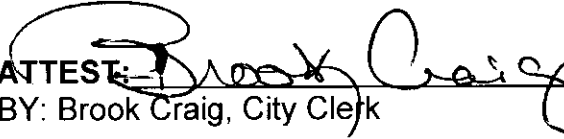
ATTEST: 
BY: Angela Baker, City Clerk

CITY OF BENTON, ILLINOIS

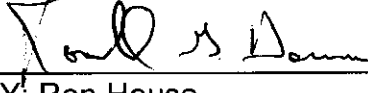


BY: Fred Kondritz
TITLE: Mayor

Date: 6/25/2018

ATTEST: 
BY: Brook Craig, City Clerk

VILLAGE OF WEST CITY, ILLINOIS



BY: Ron House
TITLE: President

Date: 6/25/18

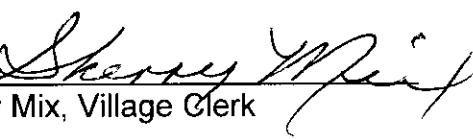
ATTEST: 
BY: Sherry Mix, Village Clerk

EXHIBIT A
FRANKLIN COUNTY I-57 ENTERPRISE ZONE MAP

EXHIBIT B
FRANKLIN COUNTY I-57 ENTERPRISE ZONE

Legal Boundary Description

EXHIBIT C

ENTERPRISE ZONE APPLICATION FOR NEW DESIGNATION

Qualifying Criteria

Required Tests: The Area Must Meet at Least Three of the Following Tests

- 1) **Unemployment:** All or part of the local labor market area has had an annual average unemployment rate of at least 120% of the State's annual average unemployment rate for the most recent calendar year or the most recent fiscal year as reported by the Department of Employment Security.
- 2) **Substantial Employment Opportunities:** Designation will result in the development of substantial employment opportunities by creating or retaining a minimum aggregate of 1,000 full-time equivalent jobs due to an aggregate investment of \$100,000,000 or more, and will help alleviate the effects of poverty and unemployment within the local labor market area.
- 3) **Poverty:** All or part of the local labor market area has a poverty rate of at least 20% according to the latest data from the U.S. Census Bureau, 50% or more of children in the local labor market area are eligible to participate in the federal free or reduced-price meals program according to reported statistics from the State Board of Education, or 20% or more households in the local labor market area receive food stamps according to the latest data from the U.S. Census Bureau.
- 4) **Abandoned Coal Mine, Brownfield or Federal Disaster Area:** An abandoned coal mine or a brownfield located in the proposed zone area, or all or a portion of the proposed zone was declared a federal disaster area in the 3 years preceding the date of application.
- 5) **Large Scale Business Closings:** The local labor market area contains a presence of large employers that have downsized over the years, labor market area has experienced plant closures in the 5 years prior to the date of application affecting more 50 workers, or the local labor market area has experienced State or federal facility closures in the 5 years prior to the date of application affecting more than 50 workers.
- 6) **Vacant Structures:** Based on data from Multiple Listing information or other suitable sources, the local labor market area contains a high floor vacancy rate of industrial or commercial properties, vacant or demolished commercial and industrial structures are prevalent in the local labor market area, or industrial structures in the local labor market area are not used because of age, deterioration, relocation of the former occupants, or cessation of operation.
- 7) **Tax Base Improvement Plan:** The applicant demonstrates a substantial plan for using the designation to improve the State and local government tax base, including income, sales, and property taxes.
- 8) **Public Infrastructure Improvement Plan:** Significant public infrastructure is present in the local labor market area in addition to a plan for infrastructure development and improvement.
- 9) **Manufacturing Skills Programs:** High schools or community colleges located within the local labor market area are engaged in ACT Work Keys, Manufacturing Skills Standard Certification, or industry-based credentials that prepare students careers.
- 10) **Equalized Assessed Valuation:** The increase (decrease) in equalized assessed valuation of industrial and/or commercial properties in the 5 years prior to the date of application in the local labor market area is equal to or less than (greater than) 50% of the State average increase (decrease) in equalized valuation for industrial and/or commercial properties, as applicable, for the same period of time as reported by the Illinois Department of Revenue.