

VILLAGE OF DOWNERS GROVE
Report for the Village
9/12/2017

SUBJECT:	SUBMITTED BY:
A resolution authorizing execution of an incentive agreement between the Village of Downers Grove and Rexnord Industries, LLC	Enza Petrarca Village Attorney

SYNOPSIS

A resolution has been prepared authorizing execution of an incentive agreement between the Village of Downers Grove and Rexnord Industries, LLC.

STRATEGIC PLAN ALIGNMENT

The goals for 2015-2017 include *Steward of Financial, Environmental and Neighborhood Sustainability*.

FISCAL IMPACT

The Village will provide an incentive to Rexnord Industries, LLC, in the form of a 50% reduction in building permit fees. There is no cash expense to the Village. The value of the fee waiver is estimated to be up to \$105,000.

UPDATE & RECOMMENDATION

This item was discussed at the September 5, 2017 Village Council meeting. Staff recommends approval at the September 12, 2017 Village Council meeting.

BACKGROUND

Rexnord is a Wisconsin-based multiplatform industrial leader that serves an array of global markets. The company is proposing to redevelop its existing site at 2400 Curtiss for a new 200,000 sq. ft. manufacturing facility and Aerospace Headquarters. The project will become a significant new anchor for the Ellsworth Business Park. Approximately 310 jobs will be retained, with an additional 25 jobs projected in the future. In addition, Rexnord is projecting that it will generate 1,000 room nights per year in Downers Grove hotels, as well as customers for local restaurants.

The economic incentive agreement includes the following key terms:

- Rexnord will redevelop the property at 2400 Curtiss for the construction of new manufacturing operations and the establishment of a new Aerospace Headquarters.
- Rexnord shall comply with all Village ordinances and applicable laws.
- Rexnord shall diligently pursue obtaining all required permits for the construction of the project.
- Rexnord shall obtain certificates of occupancy by June 30, 2019.

- Rexnord shall continue operations at the property for a minimum of five years. If Rexnord fails to do so, it agrees to pay the Village the total amount of the fee waiver.
- The Village of Downers Grove agrees to waive 50% of permit fees associated with the construction of the project.

The redevelopment of the existing Rexnord site will result in a new state of the art aerospace manufacturing facility and division headquarters. The Downers Grove Economic Development Corporation supports this economic incentive agreement.

ATTACHMENTS

Resolution
Agreement

RESOLUTION NO. _____**A RESOLUTION AUTHORIZING EXECUTION
OF AN INCENTIVE AGREEMENT BETWEEN
THE VILLAGE OF DOWNERS GROVE AND
REXNORD INDUSTRIES, LLC**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Incentive Agreement (the "Agreement") between the Village of Downers Grove (the "Village") and Rexnord Industries, LLC ("Rexnord"), for the reconstruction and operation of a manufacturing infrastructure and offices in Downers Grove, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____

Village Clerk

**INCENTIVE AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE
AND REXNORD INDUSTRIES, LLC**

This Incentive Agreement (this "Agreement"), is made and entered into as of the ____ day of _____, 20__ ("Effective Date") by and between the **VILLAGE OF DOWNERS GROVE, ILLINOIS**, an Illinois municipal home rule corporation, located in DuPage County, Illinois (the "Village"), and **REXNORD INDUSTRIES, LLC**, a limited liability company (hereinafter referred to as "Rexnord"). (The Village and Rexnord are sometimes referred to individually as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS, the Village is a home rule unit of government in accordance with Article VII, Section 6, of the Constitution of the State of Illinois, 1970; and

WHEREAS, the Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the Village and its inhabitants, to prevent the presence of blight, to encourage private development in order to enhance the local tax base, to increase additional tax revenues realized by the Village, foster increased economic activity within the Village, to increase employment opportunities within the Village, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes, and otherwise in the best interests of the Village; and

WHEREAS, Rexnord is the current owner of the property located at 2400 Curtiss Street, Downers Grove; and

WHEREAS, Rexnord is currently operating a manufacturing facility on the Property located at 2400 Curtis Street, Downers Grove; and

WHEREAS, the Village has determined that it is desirable and in the Village's best interests to offer certain economic incentives to Rexnord in the manner set forth herein and as this Agreement may be supplemented and amended; and

WHEREAS, this Agreement has been submitted to the Corporate Authorities of the Village for consideration and review, the Corporate Authorities have taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon the Village according to the terms hereof, and any and all actions of the Corporate Authorities of the Village precedent to the execution of this Agreement have been undertaken and performed in the manner required by law; and

WHEREAS, this Agreement has been submitted to the authorized representatives of Rexnord for consideration and review, which authorized representatives have taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon Rexnord according to the terms hereof, and any and all action of Rexnord precedent to the execution of this Agreement has been undertaken and performed in the manner required by law.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

ARTICLE ONE
INCORPORATION OF RECITALS

The findings, representations and agreements set forth in the above Recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though fully set out in this Article One, and constitute findings, representations and agreements of the Village and of Rexnord according to the tenor and import of the statements in such Recitals.

ARTICLE TWO
DEFINITIONS

For the purposes of this Agreement, unless the context clearly requires otherwise, words and terms used in this Agreement shall have the meanings provided from place to place herein, including above in the recitals hereto and as follows:

"Affiliate" means any person or entity that, directly or indirectly, controls, is controlled by or is under common control with Rexnord. For purposes of this definition, control means possessing the power to direct or cause the direction of the management and policies of the entity ownership of a majority of the voting interests of the entity.

"Agreement" means this Incentive Agreement and all of the exhibits and attachments referenced herein and made a part hereof.

"Change in Law" means the occurrence, after the Effective Date, of an event described below, provided (a) such event materially changes the costs or ability of the Party relying thereon to carry out its obligations under this Agreement and (b) such event is not caused by the Party relying thereon. Change in Law includes any of the following: (i) the enactment, adoption, promulgation or modification of any federal, state or local law, ordinance, code, rule or regulation (other than by the Village); (ii) the order or judgment of any federal or state court, administrative agency or other governmental body; (iii) the imposition of any conditions on, or delays in, the issuance or renewal of any governmental license, approval or permit (or the suspension, termination, interruption, revocation, modification, denial or failure of issuance or renewal thereof) necessary for the undertaking of the services to be performed under this Agreement; or (iv) the adoption, promulgation, modification or interpretation in writing of a written guideline or policy statement by a governmental agency (other than the Village or with respect to those made by the Village, only if they violate the terms of this Agreement).

"Corporate Authorities" means the Mayor and Village Council of the Village of Downers Grove, Illinois.

"Day" means a calendar day.

"Party" means the Village and/or Rexnord and its Affiliates, successors and/or assigns as permitted herein, as the context requires.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, trust, or government or any agency or political subdivision thereof, or any agency or entity created or existing under the compact clause of the United States Constitution.

"Project" means the development of the Property by allowing the construction of a new facility with approximately two hundred thousand (200,000) square feet of modernized manufacturing infrastructure and offices, including the purchase of new machinery and equipment by Rexnord, after which the existing facility will be razed.

"Property" means the existing 25-acre site which is located at 2400 Curtiss Street, Downers Grove, Illinois.

"State" means the State of Illinois.

"Uncontrollable Circumstance" means any event which:

- (a) is beyond the reasonable control of and without the fault of the Party relying thereon; and
- (b) is one or more of the following events:
 - (i) a Change in Law;
 - (ii) insurrection, riot, civil disturbance, sabotage, act of the public enemy, explosion, nuclear incident, war or naval blockade;
 - (iii) epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary weather conditions or other similar Act of God;
 - (iv) governmental condemnation or taking other than by the Village; and
 - (v) strikes or labor disputes.

Uncontrollable Circumstance shall not include: (1) economic hardship, (2) commercial or economic frustration of purpose, (3) unavailability of materials, or (4) a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor).

"Village" means the Village of Downers Grove, Illinois, an Illinois municipal corporation.

"Village Council" means the Mayor and Commissioners elected by the residents of the Village, as it may exist from time to time.

ARTICLE THREE
AGREEMENT STRUCTURE

This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) Definitions include both singular and plural.
- (b) Pronouns include both singular and plural and cover all genders.
- (c) The word "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".
- (d) Headings of Sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.
- (e) All exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement. In the event of a conflict between any exhibit and the terms of this Agreement, the terms of this Agreement shall control.
- (f) Any certificate, letter or opinion required to be given pursuant to this Agreement means a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth. Any reference herein to supplemental agreements, certificates, demands, requests, approvals, consents, notices and the like means that such shall be in writing whether or not a writing is specifically mentioned in the context of use.
- (g) The Village Manager, unless applicable law requires action by the Corporate Authorities, shall have the power and authority to make or grant or do those things, certificates, requests, demands, notices and other actions required that are ministerial in nature or described in this Agreement for and on

behalf of the Village and with the effect of binding the Village as limited by and provided for in this Agreement. Rexnord is entitled to rely on the full power and authority of the persons executing this Agreement on behalf of the Village as having been properly and legally given by the Village.

(h) In connection with the foregoing and other actions to be taken under this Agreement, and unless applicable documents require action by Rexnord in a different manner, Rexnord hereby designates Howard Lederman as its authorized representative who shall individually have the power and authority to make or grant or do all things, supplemental agreements, certificates, requests, demands, approvals, consents, notices and other actions required or described in this Agreement for and on behalf of Rexnord and with the effect of binding Rexnord in that connection. Rexnord shall have the right to change its Authorized Representative by providing the Village with written notice of such change, which notice shall be sent in accordance with Article Eight, Paragraph 4.

ARTICLE FOUR **IMPLEMENTATION OF PROJECT**

The Village and Rexnord agree to cooperate in implementing the Project in accordance with the Parties respective obligations set forth in this Agreement.

ARTICLE FIVE **VILLAGE'S OBLIGATIONS**

1. ***Village Cooperation:*** The Village agrees to cooperate with Rexnord in its attempts to obtain all necessary approvals for the Project and its operations therein from any governmental or quasi-governmental entity other than the Village. The Village shall duly review and consider any application for permits filed by Rexnord in conjunction with this Agreement.

2. ***Waiver of Permit Fees:*** The Village agrees to waive Fifty Percent (50%) of permit fees associated with the construction of the Project (the "Fee Waiver"). Additionally, the Village shall cooperate with Rexnord in implementing the terms and conditions of this Agreement.

ARTICLE SIX
REXNORD OBLIGATIONS

1. ***Compliance with Village Ordinances:*** No payments or waiver shall be made until and unless Rexnord is in material compliance with all terms and conditions of any and all Village Ordinances and all other terms and conditions of this Agreement. The Village shall not unreasonably withhold the issuance of any permits.

2. ***Commitment to Continue Operation:*** The Parties agree that the payment is based in part upon a commitment by Rexnord to cause the construction of the Project, including the establishment of its Aerospace Headquarters on the Property. To that end, Rexnord agrees to continue its operation at the Property for that use and any other use permitted by applicable zoning laws, including variances, use permits and amendments to applicable zoning laws, for a minimum period of five (5) years from the Commencement Date (the "Term"). If at any time during the Term of this Agreement, Rexnord, or a successor or assign, fails to operate its operation at the Property in accordance with this Section, then the Village shall be released and discharged from any further obligation to make payments under this Agreement and Rexnord hereby agrees to pay to the Village the total amount of the Fee Waiver.

3. ***Construction of Project:*** Rexnord and its agents shall cause the diligent pursuit of all required permits and shall cause construction of the Project on the Property to be pursued and completed with due diligence, in good faith and without delay. Subject to Uncontrollable Circumstances, Rexnord shall use best efforts to obtain certificates of occupancy for the Project no later than June 30, 2019. The date that Rexnord receives the last certificate of occupancy for the Project from all governmental entities having jurisdiction over the design and construction of the Project shall be the "Commencement Date".

4. ***Compliance with Applicable Laws:*** Rexnord and its agents shall at all times acquire, install, construct, operate and maintain the Project in conformance with all applicable laws, rules, ordinances and regulations. All work with respect to the Project shall conform to all applicable federal,

State and local laws, regulations and ordinances, including, but not limited to, zoning, subdivision and planned unit development codes, building codes, environmental codes, life safety codes, property maintenance codes, stormwater codes and any other applicable codes and ordinances of the Village.

5. **Copies of Agreements:** Upon request of the Village, Rexnord shall submit copies of any and all property title documents for land subject to the terms of the Agreement.

ARTICLE SEVEN **BREACH**

In the event of breach of any of the terms and conditions of the Agreement, the non-breaching party shall have the right to terminate this Agreement, which will not relieve the breaching party from performance.

ARTICLE EIGHT **MISCELLANEOUS PROVISIONS**

1. **Additional Documentation:** Each party agrees to execute any additional documents which may be required to carry out the provisions of this Agreement

2. **Jurisdiction and Choice of Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, and the sole and exclusive venue for any disputes arising out of this Agreement shall be the appropriate State or federal court located within the State.

3. **Waiver:** A waiver of any part of this Agreement shall be limited to that specific event and shall not be a waiver of the entire Agreement.

4. **Notice:** Any notices required in this Agreement shall be effective when in writing and three (3) days after mailing by certified mail return receipt requested, or by delivering the same in person or to an officer of such party or by private overnight courier, when appropriate, addressed to the party to be notified.

All notices to Downers Grove shall be sent to:

Village Manager
Village of Downers Grove
801 Burlington Avenue
Downers Grove, Illinois 60515

With copy to:

Village Attorney
Village of Downers Grove
801 Burlington Avenue
Downers Grove, Illinois 60515

All notices to Rexnord shall be sent to:

Howard Lederman
Vice President, Tax
Rexnord Industries, LLC
247 Freshwater Way
Milwaukee, WI 53204

With a copy to:

Legal Department
247 Freshwater Way
PO Box 2022
Milwaukee, WI 53201

5. ***Successors & Assigns:*** This Agreement and the covenants, rights, benefits and obligations hereunder shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. Rexnord shall have the right to assign the benefits of this Agreement to any person or entity acquiring its interest in the Property; subject, however, to the written approval of the Village, which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything herein that may be deemed to the contrary, Rexnord shall have the right to enter into a sale-leaseback transaction for the Property and its entry in the sale-leaseback shall not be deemed a violation of any of its obligations under this Agreement and Rexnord shall be entitled to receive the Fee Waiver subsequent to a sale-leaseback.

6. ***Further Assistance and Corrective Instruments:*** The Village and Rexnord agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may be reasonably required for

carrying out the intention of or facilitating the performance of this Agreement to the extent legally permitted.

7. ***Time of the Essence:*** Time is of the essence of this Agreement.

8. ***Counterparts:*** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

9. ***Severability:*** If any provision of this Agreement, or any Section, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held to be invalid, the remainder of this Agreement shall be construed as if such invalid part were never included herein, and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

10. ***Entire Contract and Amendments:*** This Agreement (together with the exhibits attached hereto) is the entire contract between the Village and Rexnord relating to the subject matter hereof, supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the Village and Rexnord, and may not be modified or amended except by a written instrument executed by the Parties hereto.

11. ***Third Parties:*** Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the Village and Rexnord, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to either the Village or Rexnord, nor shall any provision give any third parties any rights of subrogation or action over or against either the Village or Rexnord. .

12. ***No Personal Liability of Officials of Village or Rexnord:*** No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of the Mayor, Village Council member, Village Manager, any official, officer, partner, member, director, agent, employee or attorney of the Village or Rexnord, in his or her individual capacity, and no official, officer, partner, member, director, agent, employee or attorney of the Village or Rexnord shall be liable personally under

this Agreement or be subject to any personal liability or accountability by reason of or in connection with or arising out of the execution, delivery and performance of this Agreement, or any failure in that connection.

13. **Conflict:** To the extent that any ordinance, resolution, rule, order or provision of the Village's code of ordinances, or any part thereof, is in conflict with the provisions of this Agreement, the provisions of this Agreement shall be controlling, to the extent lawful.

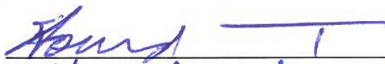
14. **Municipal Limitations:** All municipal commitments are limited to the extent required by law.

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

VILLAGE OF DOWNERS GROVE,
an Illinois municipal corporation

REXNORD INDUSTRIES, LLC,
a Delaware limited liability company

By: Mayor




By: Vice President-Tor

ATTEST:

ATTEST:

By: Village Clerk



By: Senior Group Counsel
Rexnord Corporation