WEST VIRGINIA CODE: §5B-2L-17

§5B-2L-17. Agreement between Department of Economic Development and approved company or approved group of multiple party project participants.

(a) The Department of Economic Development, upon final approval of an application by the Secretary, may enter into an agreement with any approved company or group of multiple party project participants with respect to a project.

(b) The Department of Economic Development may, at the discretion of the Secretary of the Department of Economic Development, approve an application for project certification constituting a single company application or a multiple party project application. The Secretary of the Department of Economic Development may certify a multiple party project, and may enter into an agreement with the principals thereof. For purposes of this article, a multiple party project participant must be an eligible company as defined in this article. The terms and provisions of each agreement shall include, but not be limited to:

(1) Total projected approved costs.

(2) Within three months of the completion date, the approved company or group of multiple party project participants shall document:

(A) The actual cost of the project through a certification of the costs to the Department of Economic Development by an independent certified public accountant acceptable to the Department of Economic Development; and

(B) A date certain by which the approved company or group of multiple party project participants shall have completed and opened the certified project for occupancy.

(3) Any approved company or group of multiple party project participants, having received final approval may request, and the Department of Economic Development may grant, an extension of time or change to the expected timeline. However, in no event shall the extension exceed three years from the date of certification to the completion date specified in the agreement with the approved company or group of multiple party project participants.

(c) Although adjacent properties may be developed and expanded upon by approved companies or others, and certified BUILD WV project property may itself be developed and expanded upon, in such cases, the certified BUILD WV project designation and the tax incentives and benefits of this article shall not apply with relation to such noncertified developments or expansions, except upon the issuance of a subsequent certification by the Department of Economic Development for such development or expansion. In no case may a certified project be augmented, enlarged, extended or expanded, except pursuant to issuance of an additional and separate certification of a new and distinct project. Any augmentation, enlargement, extension or expansion may only be approved and certified

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pursuant to the submission of a new request for project approval, with full payment of all associated fees, and submission of full documentation as required under this article for a new project.

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