

**RESOLUTION NO. 05-18**

**A RESOLUTION OF THE COMMON COUNCIL OF THE  
CITY OF WEST LAFAYETTE, INDIANA  
APPROVING CERTAIN MATTERS IN CONNECTION WITH THE ADDITION OF  
PROJECTS IN THE 231 PURDUE ECONOMIC DEVELOPMENT AREA**

WHEREAS, the City of West Lafayette Redevelopment Commission (the “Redevelopment Commission”), as the governing body for the City of West Lafayette Redevelopment Department, pursuant to Indiana Code 36-7-14, as amended (the “Act”), adopted a Declaratory Resolution on April 18, 2018 (the “Declaratory Resolution”), amending a prior resolution by amending the Economic Development Plan (the “Plan”) for the 231 Purdue Economic Development Area (the “Economic Development Area”) by adding certain projects to the Plan as described in Exhibit A to the Declaratory Resolution; and

WHEREAS, the Tippecanoe County Area Plan Commission on April 18, 2018, approved and adopted a resolution (the “Plan Commission Order”) determining that the Declaratory Resolution and the Plan conform to the plan of development for the City of West Lafayette, Indiana (the “City”) and approving the Declaratory Resolution and the Plan; and

WHEREAS, The Trustees of Purdue University (the “University”) and the City have continued to collaborate to manage and deliver the State Street Redevelopment Project, as more particularly outlined in a Project Development Agreement entered into among the City, the University, Purdue Research Foundation (“PRF”), the West Lafayette Redevelopment Commission (the “RDC”) and the Interlocal Cooperation Board of the City of West Lafayette, Indiana and The Trustees of Purdue University (the “Joint Board”), effective as of May 20, 2015, as modified by the Amended and Restated Project Development Agreement, effective as of May 20, 2015, and as further modified by Amendment No. 1 to Amended and Restated Project Development Agreement, approved as of March 10, 2016 (collectively, the “PDA”); and

WHEREAS, it is now the desire of the City (by and through this Common Council), the University, PRF, the RDC and the Joint Board to further modify the PDA as set forth in Amendment No. 2 to Amended and Restated Project Development Agreement, as attached hereto as Exhibit A (“Amendment No. 2”), to enable Excess TIF 2 Revenue (as such term is defined in the PDA) to be utilized for financing assistance to the University and/or PRF for projects located in TIF 2 (as such term is defined in the PDA), subject to prior uses under the PDA.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of West Lafayette, Indiana, as follows:

1. Pursuant to Section 16(a) and (b) of the Act, the Common Council of the City (the “Council”) determines that the Declaratory Resolution and the Plan for the Economic

Development Area conform to the plan of development for the City, and approves in all respects, the Declaratory Resolution, the Plan for the Economic Development Area and the Plan Commission Order.

2. Based upon the review of the terms and provisions of Amendment No. 2, this Common Council hereby determines that the amendments to the PDA as described in Amendment No. 2 are in the best interests of the City. This Common Council hereby approves the substantially final form of Amendment No. 2 presented to this meeting and authorizes the entry by the City into Amendment No. 2.

3. This Common Council hereby authorizes and directs the Mayor and Clerk, and each of them, to do and perform all acts and to execute in the name of the City and to attest, as appropriate, all such instruments, documents, papers or certificates in such form as the Mayor and Clerk shall deem proper, to be evidenced by the execution or attestation thereof, which are necessary or appropriate to carry out the transactions contemplated by this Resolution.

4. This Resolution shall be in full force and effect from and after its passage by the Council and approval by the Mayor as required by law.

INTRODUCED ON FIRST READING ON THE 7 DAY OF May, 2018.

MOTION TO ADOPT MADE BY COUNCILOR DeBoer, AND SECONDED BY COUNCILOR Jones.

DULY RESOLVED, PASSED, AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, ON THE 7 DAY OF May, 2018, HAVING BEEN PASSED BY A VOTE OF 6 IN FAVOR AND 0 OPPOSED, THE ROLL CALL VOTE BEING:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
DeBoer	✓			
Dietrich	✓			
Jones	✓			
Keen			✓	
Leverenz	✓			
Sanders			✓	
Thomas	✓			
Wang			✓	

  
Peter Bunder, Presiding Officer

Attest:

Sana G. Booker  
Sana G. Booker, Clerk



PRESENTED BY ME TO THE MAYOR OF THE CITY OF WEST LAFAYETTE, INDIANA  
ON THE 9 DAY OF May, 2018.

Sana G. Booker  
Sana G. Booker, Clerk

THIS RESOLUTION APPROVED AND SIGNED BY ME ON THE 9 DAY OF  
May, 2018.

John R. Dennis  
John R. Dennis, Mayor

Attest:

Sana G. Booker  
Sana G. Booker, Clerk



**AMENDMENT NO. 2  
TO AMENDED AND RESTATED  
PROJECT DEVELOPMENT AGREEMENT**

THIS AMENDMENT NO. 2 TO AMENDED AND RESTATED PROJECT DEVELOPMENT AGREEMENT (this “Amendment”) is made and entered into as of the \_\_\_\_\_ day of June, 2018, by and among the City of West Lafayette (hereinafter “City”), The Trustees of Purdue University (hereinafter the “University”), the West Lafayette Redevelopment Commission (hereinafter the “RDC”), the Purdue Research Foundation (hereinafter “PRF”), and the Joint Board (as defined in the hereinafter defined Agreement) concerning the State Street Redevelopment Project (the “Project”), effective as of May 20, 2015 (the “Agreement”), and it amends the Agreement in the manner set forth below. The City, the University, the RDC, PRF and the Joint Board are sometimes referred to individually herein as a “Party,” or collectively as the “Parties.” Terms used but not otherwise defined herein have the meanings ascribed to them in the Agreement.

**RECITALS**

**WHEREAS**, the Parties previously entered into the Agreement to participate jointly in the construction of the Project; and

**WHEREAS**, Section 6.2 of the Agreement acknowledges that “it is essential to grow the amount of Dedicated TIF 2 Revenue available to fund the Project”...and that “[t]he City and the RDC will cooperate with, and use their best efforts to support, PRF and the University in connection with any development plans that PRF and the University bring forward for parcels located in TIF 2;” and

**WHEREAS**, the Parties have identified further projects located or to be located in TIF 2 that will benefit from continued cooperation among the Parties; and

**WHEREAS**, the City and RDC desire to assist PRF and the University in growing the amount of Dedicated TIF 2 Revenue, and such assistance will accelerate such growth, and for this reason the Parties now desire to provide for same:

**NOW THEREFORE**, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**SECTION 1. Amendment.**

**1.1** Section 5.3.2 of the Agreement is hereby deleted and a new Section 5.3.2 is added in replacement to read in its entirety as follows:

“5.3.2. subject to the conditions outlined in Sections 5.8 and 5.11 hereof, ensure, in any payment period in which there is Excess TIF 2 Revenue, that any such Excess TIF 2 Revenue is promptly paid in the following order of priority: (a) first, and on a *pari passu* basis with each other, to the sources of the University’s 50% portion of any outstanding Overall Shortfall Advance; (b) second, to PRF in respect of TIF 2 Shortfall Advances and any other amounts that remain outstanding under

the TIF Support Facility, (c) third, to the University in respect of Project Indirect Costs that have been incurred but remain unreimbursed, (d) fourth, to any commitment by the City and the RDC to provide financing assistance to the University and/or PRF for projects located in TIF 2, which commitment is expected to be 90% of the remaining Excess TIF 2 Revenue; and (e) finally, to the TIF 2 allocation fund to be used by the RDC in accordance with Indiana law.”

**1.2** Section 5.6.2 of the Agreement is hereby deleted and a new section 5.6.2 is added in replacement to read in its entirety as follows:

“5.6.2. the RDC and the EDC Bond trustee shall take all actions necessary to ensure, in any payment period in which there is Excess TIF 2 Revenue, that any such Excess TIF 2 Revenue is paid in the manner provided in Section 5.3.2 hereof. For the avoidance of doubt, Excess TIF 2 Revenue shall be subject to the following priority claims:

5.6.2.1 amounts owed to the sources of the University’s 50% portion of any Overall Shortfall Advances shall (on a *pari passu* basis with each other) rank senior to all other claims on Excess TIF 2 Revenue;

5.6.2.2 amounts owed to PRF in respect of the inaugural availability payment (if any), any TIF 2 Shortfall Advances, and any other amounts outstanding under the TIF Support Facility shall rank junior to amounts owed in respect of the University’s 50% portion of Overall Shortfall Advances but senior to all other claims on Dedicated TIF 2 Revenue;

5.6.2.3 amounts owed to the University in respect of Project Indirect Costs shall rank junior only to the University’s 50% portion of any Overall Shortfall Advances, any inaugural availability payment advance, any TIF 2 Shortfall Advances, and any other outstanding draws on the TIF Support Facility, but senior to all other claims on Dedicated TIF 2 Revenue; and

5.6.2.4 amounts due to any commitment by the City and the RDC to provide financing assistance to the University and/or PRF for projects located in TIF 2 to the TIF 2 allocation fund in the amount set forth above in Section 5.3.2(d): (i) shall rank junior only to the University’s 50% portion of any Overall Shortfall Advances, any inaugural availability payment advance, any TIF 2 Shortfall Advances, any other outstanding draws on the TIF Support Facility and amounts owed to the University in respect of Project Indirect Costs, and (ii) shall rank senior to all other claims on Excess TIF 2 Revenue.”

**SECTION 2. Limited Effect.** Except as expressly amended and modified by this Amendment, the Agreement shall continue in full force and effect in accordance with its terms, and nothing contained in this Amendment is intended to affect the parties’ existing or continuing rights or obligations under the Agreement, except as expressly modified hereby.

**SECTION 3. Governing Law.** This Amendment shall be governed by and construed in accordance with the substantive laws of the State of Indiana, without regard to its choice of law principles.

**SECTION 4. Counterparts.** This Amendment may be executed in any number of counterparts, each of which shall be considered an original but all of which, taken together, shall constitute but one and the same instrument.

**IN WITNESS WHEREOF,** the Parties have caused their duly authorized representatives to execute this Amendment No. 2 to the Amended and Restated Project Development Agreement in separate counterparts as of the date first written above.

[signature pages follow]

CITY OF WEST LAFAYETTE, INDIANA

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Mayor

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City Clerk

THE TRUSTEES OF PURDUE UNIVERSITY

\_\_\_\_\_

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

Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary



WEST LAFAYETTE REDEVELOPMENT  
COMMISSION

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President

Attest:

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Secretary

PURDUE RESEARCH FOUNDATION

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

Title: \_\_\_\_\_

Attest:

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Secretary

JOINT BOARD UNDER THE INTERLOCAL  
COOPERATION AGREEMENT BETWEEN THE  
CITY OF WEST LAFAYETTE AND THE  
TRUSTEES OF PURDUE UNIVERSITY

\_\_\_\_\_

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

Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary/Treasurer