

ORDINANCE NO. 48-15

AN ORDINANCE OF THE CITY OF WEST LAFAYETTE, INDIANA, APPROVING A NOTE OF THE WEST LAFAYETTE REDEVELOPMENT COMMISSION AND A SUBLEASE BETWEEN THE WEST LAFAYETTE COMMUNITY DEVELOPMENT CORPORATION AND THE CITY OF WEST LAFAYETTE REDEVELOPMENT COMMISSION, AND ADDRESSING MATTERS RELATED THERETO

WHEREAS, the City of West Lafayette Redevelopment Commission (the “Redevelopment Commission”) has adopted a resolution approving a proposed Sublease Agreement in the form presented at this meeting (the “Sublease”) for the purpose of enabling West Lafayette Community Development Corporation to pay the principal and interest on one or more series of economic development revenue bonds proposed to be issued by the City of West Lafayette pursuant to IC 36-7-12, as amended (the “Bonds”), for purposes of financing the project described in the Sublease (the “Project”) attached hereto as Exhibit A; and

WHEREAS, the Common Council desires to approve the Sublease pursuant to IC 36-7-14-25.2, as amended, which provides that any lease approved by a resolution of the Redevelopment Commission must be approved by an ordinance of the fiscal body of the unit; and

WHEREAS, the Redevelopment Commission desires to enter into a “TIF Support Facility Agreement Concerning the State Street Redevelopment Project,” (the “TIF Support Agreement”), which TIF Support Agreement provides for a non-revolving line of credit in favor of the Redevelopment Commission, which line of credit is evidenced by a note (the “Note”) of the Redevelopment Commission to the Purdue Research Foundation (“PRF”); and

WHEREAS, the Common Council desires to approve the Note of the Redevelopment Commission.

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

Section 1. Approval of Sublease. The Common Council hereby approves the Sublease, as approved by the Redevelopment Commission, pursuant to IC 36-7-14-25.2.

Section 2. Approval of Property Tax Back-Up. The Common Council further approves the pledge by the Redevelopment Commission of a levy of *ad valorem* property taxes to enable the Redevelopment Commission to make Sublease rentals to the extent that the Redevelopment Commission’s other available revenues are insufficient for such purpose.

Section 3. Approval of Note. The Common Council further approves the issuance by the Redevelopment Commission of the Note to PRF in the form attached hereto as Exhibit B.

Section 4. Authorization of Other Actions. The Mayor of the City and any other officer, employee or agent of the City, is hereby authorized and directed, for and on behalf of the City, to execute and deliver any contract, agreement, certificate, instrument or other document

and to take any action as such person determines to be necessary or appropriate to accomplish the purposes of this Ordinance, such determination to be conclusively evidenced by such person's execution of such contract, agreement, certificate, instrument or other document or such person's taking of such action.

INTRODUCED ON FIRST READING ON THE 7 DAY OF December, 2015.


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

DULY ORDAINED, PASSED, AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, ON THE 4 DAY OF January, 2016, HAVING BEEN PASSED BY A VOTE OF 8 IN FAVOR AND 0 OPPOSED, THE ROLL CALL VOTE BEING:

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


Peter Bunder, Presiding Officer

Attest:



Sana G. Booker, Clerk



PRESENTED BY ME TO THE MAYOR OF THE CITY OF WEST LAFAYETTE, INDIANA ON THE 6 DAY OF January, 2016.


Sana G. Booker, Clerk

THIS ORDINANCE APPROVED AND SIGNED BY ME ON THE 7 DAY OF
January, 2016.



John R. Dennis, Mayor

Attest:



Sana G. Booker, Clerk



EXHIBIT A

(FORM OF SUBLEASE)

SUB-LEASE AGREEMENT

By and Between

WEST LAFAYETTE COMMUNITY DEVELOPMENT CORPORATION,

AS LESSOR

and

CITY OF WEST LAFAYETTE REDEVELOPMENT COMMISSION,

AS LESSEE

Dated as of December __, 2015

SUB-LEASE AGREEMENT

THIS SUB-LEASE AGREEMENT is made and dated as of this ____ day of December, 2015, by and between the WEST LAFAYETTE COMMUNITY DEVELOPMENT CORPORATION, as lessor (the “Lessor”), an Indiana nonprofit corporation organized and existing under the laws of the State of Indiana and the CITY OF WEST LAFAYETTE REDEVELOPMENT COMMISSION (the “Redevelopment Commission”), the governing body of the City of West Lafayette Department of Redevelopment, as Lessee (the “Lessee”)

WITNESSETH:

WHEREAS, the Lessor exists for the purposes of assisting the Redevelopment Commission and the City of West Lafayette, Indiana (the “City”) in the financing, construction, development and operation of local public improvements and economic development Projects; and

WHEREAS, the City has created the Redevelopment Commission to undertake redevelopment and economic development in the City in accordance with Indiana Code § 36-7-14 (the “Redevelopment Act”); and

WHEREAS, to foster economic development in the City, the City, the Lessor, and the Lessee desire to provide for the acquisition and construction of the Project set forth on Exhibit A hereto (the “Project”); and

WHEREAS, the costs of the acquisition and construction of the Project will be financed by the credit of proceeds of bonds to be issued by the City in a maximum aggregate principal amount not to exceed \$78,000,000 (the “Bonds”), pursuant to Ind. Code §§ 36-7-11.9 and 12 and a Trust Indenture dated as of _____ 1, 2016 (the “Indenture”), between the City and The Huntington National Bank, as Trustee (the “Trustee”); and

WHEREAS, the City and the Redevelopment Commission have created economic development areas designated as the “Levee/Village Redevelopment Area” (the “Levee/Village Redevelopment Area”), and the “West Lafayette 231 Purdue Economic Development Area” (the “231 Purdue Economic Development Area” and together with the Levee/Village Redevelopment Area, the “TIF Areas”) in order to capture the tax increment revenues in the respective Levee/Village Redevelopment Area and the Purdue Economic Development Area (individually, the “Levee/Village TIF Revenues” and the “Purdue TIF Revenues,” and collectively, the “TIF Revenues”); and

WHEREAS, the City and the Redevelopment Commission have pledged the TIF Revenues to the payment of this Sub-Lease in order to support the payment on the Bonds; and

WHEREAS, the credit of the proceeds of the Bonds will be loaned by the City to the Lessor pursuant to a Financing Agreement dated as of _____ 1, 2016 (the “Financing Agreement”), by and between the City and the Lessor; and

WHEREAS, the Bonds will be payable solely from payments made by the Lessor pursuant to the Financing Agreement; and

WHEREAS, the Lessor's obligations under the Financing Agreement will be payable solely from annual rentals to be paid under this Sub-Lease by the Lessee and such payments will be assigned by the Lessor to the Trustee to pay debt service on and other necessary incidental expenses related to the Bonds; and

WHEREAS, pursuant to the Redevelopment Act, the Redevelopment Commission has pledged the TIF Revenues to the Sub-Lease payments and hereby commits, upon notice from the Trustee that there are insufficient funds in the Bond Fund related to an insufficiency in Levee/Village TIF Revenues under the Indenture, to take the necessary steps to levy a special benefits tax upon all of the taxable property in the West Lafayette Redevelopment District (the "Special Benefits Tax") and upon receipt of the proceeds of such Special Benefits Tax, apply such proceeds to the payment due under this Sub-Lease; and

WHEREAS, the Lessor will acquire title in the real estate described in Exhibit B (such leasehold estate, together with any roads or other improvements that are to be located thereon, collectively, the "Real Estate" or the "Leased Premises"), and such interests shall be for a term no less than the term of this Sub-Lease; and

WHEREAS, the Redevelopment Commission has determined, after a public hearing held pursuant to the Redevelopment Act and after notice given pursuant to Ind. Code § 5-3-1, that the lease rentals provided for in this Sub-Lease are fair and reasonable, that the execution of this Sub-Lease is necessary and that the service provided by the Project will serve the public purpose of the City and is in the best interests of its residents, and the Common Council has by ordinance approved this Sub-Lease; and

WHEREAS, the Lessor has duly authorized the execution of this Sub-Lease.

NOW, THEREFORE in consideration of the mutual covenants herein contained, the parties hereto hereby agree as follows:

1. Premises, Term and Warranty. The Lessor does hereby lease, demise and let to Lessee all of the Lessor's right, title and interests in and to the Leased Premises.

TO HAVE AND TO HOLD the Leased Premises with all rights, privileges, easements and appurtenances thereunto belonging, unto the Lessee, beginning on the date on which the Lessee begin to make lease rental payments hereunder and ending on the day prior to a date not more than twenty-five (25) years thereafter. However, the term of this Sub-Lease will terminate at the earlier of (a) the exercise by the Redevelopment Commission of the option to purchase the Leased Premises pursuant to Section 15 and the payment of the option price, or (b) the payment or defeasance of all bonds issued (i) to finance the cost of the Leased Premises, (ii) to refund all or a portion of such bonds, (iii) to refund all or a portion of such refunding bonds, or (iv) to improve the Leased Premises; provided that no bonds or other obligations of the City issued to finance the Leased Premises remain outstanding at the time of such payment or defeasance. The Lessor hereby represents that it is possessed of, or will acquire, the Leasehold Estate in the Leased Premises and the Lessor warrants and will defend the Leased Premises against all claims whatsoever not suffered or caused by the acts or omissions of the Lessee or their assigns.

Notwithstanding the foregoing, the Leased Premises may be amended to add additional property to the Leased Premises or remove any portion of the Leased Premises, provided

however, following such amendment, the rental payable under this Sub-Lease shall be based on the value of the portion of the Leased Premises which is available for use, and the rental payments due under this Sub-Lease shall be in amounts sufficient to pay when due all principal of and interest on all outstanding Bonds.

2. Sub-Lease Rental.

(a) Rental Payments. The annual rental for the use and occupancy of the Leased Premises at a maximum annual rate of \$_____ (the “Annual Rentals” and each an “Annual Rental Payment”) shall be payable in advance in semi-annual installments on the dates set forth in Section 3 hereof.

After the sale of the Bonds issued to finance the acquisition and construction of the Leased Premises, the semi-annual installment of the Annual Rentals for the Leased Premises for each six-month period ending on each July 15 or January 15 (each a “Semi-annual Period”) shall be reduced (i) for any period during which the Bonds bear interest at a fixed rate to an amount equal to the multiple of \$1,000 next higher than the sum of principal and interest due on the Bonds in such Semi-annual Period, plus Five Thousand Dollars (\$5,000) and (ii) for any period during which the Bonds bear interest at a variable rate and from time to time to an amount necessary to pay the principal of and interest on the Bonds in such Semi-annual Period, plus Five Thousand Dollars (\$5,000). Such Annual Rentals shall take into account any TIF Revenues (as defined in the Indenture) available to pay principal and interest on the Bonds pursuant to the Indenture. Payment of the Annual Rentals shall commence on the later of (i) the date the Leased Premises is available for use and occupancy by the Lessee, or (ii) a date to be determined at the time of the sale of the Bonds, such date and the amount of each semi-annual installment of the reduced Annual Rentals endorsed on this Sub-Lease by the parties hereto, shall be evidenced by a recorded addendum to the Sub-Lease in the form attached hereto as Exhibit D.

(b) Additional Rental Payments.

(i) The Lessee shall pay, or cause to be paid, as further rental in addition to the rentals paid under Section 3(a) for the Leased Premises (“Additional Rentals”), the amount of all taxes and assessments levied against or on account of the Leased Premises or the receipt of lease rental payments and the amount required to reimburse the Lessor for any insurance payments made by it under Section 6. Any and all such payments shall be made and satisfactory evidence of such payments in the form of receipts shall be furnished to the Lessor by the Lessee, at least three (3) days before the last day upon which such payments must be paid to avoid delinquency. If the Lessee shall in good faith desire to contest the validity of any such tax or assessment, the Lessee shall so notify the Lessor and shall furnish bond with surety to the approval of the Lessor conditioned for the payment of the charges so desired to be contested and all damages or loss resulting to the Lessor from the nonpayment thereof when due, the Lessee shall not be obligated to pay the contested amounts until such contests shall have been determined.

(ii) The Lessee may pay, or may cause to be paid, Additional Rentals to enable the Lessor to redeem or purchase Bonds prior to maturity. Rental payments due under this Section 2 shall be reduced to the extent such payments are allocable to the Bonds redeemed or purchased by the Lessor with such Additional Rentals. The Lessee shall be considered as having an ownership interest in the Leased Premises valued at an amount equal to the amount of the Additional Rentals paid pursuant to this subsection (b)(ii).

(c) Source of Payment of Rentals. The Annual Rentals and the Additional Rentals shall be payable solely revenues from TIF Revenues or the Special Benefits Tax levied by the Redevelopment Commission, and the Lessee shall be under no obligation to pay any Annual Rentals or Additional Rentals from any moneys or properties of the Lessee except from such TIF Revenues or the Special Benefits Tax of the Redevelopment Commission.

3. Payment of Rentals.

(a) The first lease rental payment shall be due on the later of (i) the date the Leased Premises are available for use and occupancy by the Lessee, or (ii) a date to be determined at the time of the sale of the Bonds, as set forth in the addendum referred to in Section 2(a) above. If the first rental payment date on the Leased Premises is other than July 15 or January 15, the first rental payment shall be for an amount calculated at the rate for that Semi-annual Period from the date of payment to the next July 15 or January 15. Thereafter, rentals on the Leased Premises shall be payable in advance in semi-annual installments on July 15 and January 15 of each year. The last semi-annual rent payment on the Leased Premises due shall be adjusted to provide for a rental payment at the rate specified above from the date such installment is due to the expiration of this Sub-Lease.

(b) All rentals payable under the terms of this Sub-Lease shall be paid by the Lessee to the Trustee under the Indenture or to such other bank or trust company as may from time to time succeed the Trustee as trustee under the Indenture. Any successor trustee under the Indenture shall be endorsed on this Sub-Lease at the end hereof by the parties hereto as soon as possible after selection, and such endorsement shall be recorded as an addendum to this Sub-Lease. All payments so made by the Lessee shall be considered as payment to the Lessor of the rentals payable hereunder.

4. Abatement of Rent.

(a) If any part of the Leased Premises is taken under the exercise of the power of eminent domain, so as to render it unfit or unavailable, in whole or part, for use or occupancy by the Lessee, it shall then be the obligation of the Lessor to restore and rebuild that portion of the Leased Premises as promptly as may be done, unavoidable strikes and other causes beyond the control of the Lessor excepted; provided, however, that the Lessor shall not be obligated to expend on such restoration or rebuilding more than the condemnation proceeds received by the Lessor. In such event, this Sub-Lease shall not terminate and shall remain in full force and effect and rent for the period during which the Leased Premises or such part thereof is unfit or unavailable for use or occupancy shall be abated, and the abatement shall be in proportion to the percentage of the Leased Premises which is unfit or unavailable for use or occupancy.

(b) If any part of the Leased Premises shall be partially or totally destroyed due to fire, lightning, windstorm, or other hazard, so as to render it unfit, in whole or part, for use or occupancy by the Lessee as an assisted living or similar facility, the Lessor shall promptly coordinate the proper repair and/or restoration of the Leased Premises to the same or better condition as existed immediately preceding such loss or damage; provided, however that the Lessor shall not be obligated to expend on such repair or restoration more than the insurance proceeds received by the Lessor. In such event, this Sub-Lease shall not terminate and shall remain in full force and effect and rent for the period during which the Leased Premises or such part thereof is unfit or unavailable for use or occupancy shall be abated, and the abatement shall be in proportion to the percentage of the Leased Premises which is unfit or unavailable for use or occupancy.

5. Maintenance, Alterations and Repairs. The Lessee shall provide for or may enter into one or more agreements with one or more other parties to cause them to provide for the operation, maintenance, repair and alterations of all or any portion of the Leased Premises (the "Maintenance and Use Agreements"). Such other parties may assume all responsibility for operation, maintenance, repairs and alterations to the Leased Premises. At the end of the term of this Sub-Lease, the Lessee shall deliver the Leased Premises to the Lessor in as good condition as at the beginning of the term, reasonable wear and tear only excepted.

6. Insurance. During the full term of this Sub-Lease, the Lessee shall carry, or cause to be carried, insurance on the Leased Premises against physical loss or damage, however caused, with such exceptions as are ordinarily required by insurers of buildings or improvements of a similar type, with good and responsible insurance companies. Such insurance shall be in an amount at least equal to the greater of: (i) the option to purchase price as set forth in Section 15 hereof, and (ii) one hundred percent (100%) of the full replacement cost of the Leased Premises as certified by a registered architect, registered engineer or professional appraisal engineer selected by the Lessor, on the effective date of this Sub-Lease and on or before the first day of January of each year thereafter, provided, such certification shall not be required so long as the amount of such insurance shall be at least equal to the amount specified in (i) above. Such appraisal may be based upon a recognized index of conversion factors.

During the term of this Sub-Lease, the Lessee shall also, at its own expense, maintain rent or rental value insurance in an amount equal to the full rental value of the Leased Premises for a period of one (1) year against physical loss or damage of the type insured against pursuant to the preceding requirements of this Section 6.

During the full term of this Sub-Lease, the Lessee will also carry, or cause to be carried, combined bodily injury insurance, including accidental death, and property damage with reference to the Leased Premises in an amount not less than Three Million Dollars (\$3,000,000) combined single limit on account of each occurrence with one or more good and responsible insurance companies. Such public liability insurance may be by blanket insurance policy or policies. The proceeds of the public liability insurance required herein (after payment of expenses incurred in the collection of such proceeds) shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds are paid.

Such policies shall be for the benefit of persons having an insurable interest in the Leased Premises, and shall be made payable to the Lessor, the Lessee, and the Trustee and to such other

person or persons as the Lessor may designate. If, at any time, the Lessee fails to maintain insurance in accordance with this Section, such insurance may be obtained by the Lessor and the amount paid therefor shall be added to the amount of rentals payable by the Lessee under this Sub-Lease; provided, however, that the Lessor shall be under no obligation to obtain such insurance and any action or non-action of the Lessor in this regard shall not relieve the Lessee of any consequence of its default in failing to obtain such insurance.

The insurance policies described in this Section 6 may be acquired by another party and shall satisfy this Section as long as the Lessor, the Lessee and the Trustee are named as additional insureds under such policies. Such coverage may be provided by scheduling it under a blanket insurance policy or policies.

7. Eminent Domain. If title to or the temporary use of the Leased Premises, or any part thereof, shall be taken under the exercise or the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, any net proceeds received from any award made in such eminent domain proceedings (after payment of expenses incurred in such collection) shall be paid to and held by the Trustee under the Indenture.

Such proceeds shall be applied in one or more of the following ways:

(a) The restoration of the Leased Premises to substantially the same condition as it existed prior to the exercise of that power of eminent domain, or

(b) The acquisition, by construction or otherwise, of other improvements suitable for the Lessee' operations on the Leased Premises and which are in furtherance of the purposes of the Act (the improvements shall be deemed a part of the Leased Premises and available for use and occupancy by the Lessee without the payment of any rent other than as herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby).

Within ninety (90) days from the date of entry of a final order in any eminent domain proceedings granting condemnation, the Lessee shall direct the Lessor and the Trustee in writing as to which of the ways specified in this Section the Lessee elects to have the net proceeds of the condemnation award applied. Any balance of the net proceeds of the award in such eminent domain proceedings not required to be applied for the purposes specified in subsections (a) or (b) above shall be deposited in the sinking fund held by the Trustee under the Indenture and applied to the repayment of the Bonds.

The Lessor shall cooperate fully with the Lessee in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Leased Premises or any part thereof and will to the extent it may lawfully do so permit the Lessee to litigate in any such proceedings in its own name or in the name and on behalf of the Lessor. In no event will the Lessor voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Leased Premises or any part thereof without the written consent of the Lessee, which consent shall not be unreasonably withheld.

8. Assignment and Subletting. No assignment of this Sub-Lease shall be permitted by either party, except to the extent provided in the Indenture. The Lessee shall cause any

subtenants to execute subordination, non-disturbance and attornment agreements as may reasonably be requested by the Lessor.

9. Release of Leased Premises. Undeveloped portions of the Leased Premises may be released from the lien of this Sub-Lease in the event (i) they are sold by the Lessee to an unrelated third party and (ii) the net proceeds of such sale are deposited by the Lessee into the Bond Fund of the Indenture and provisions shall have been made to use such monies to redeem all or a portion of the Bonds.

10. Defaults. If the Lessee shall default (a) in the payment of any rentals or other sums payable to the Lessor hereunder, or in the payment of any other sum herein required to be paid for the Lessor; or (b) in the observance of any other covenant, agreement or condition hereof, and such default shall continue for ninety (90) days after written notice to correct such default; then, in any or either of such events, the Lessor may proceed to protect and enforce its rights by suit or suits in equity or at law in any court of competent jurisdiction, whether for specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy; or the Lessor, at its option, without further notice, may terminate the estate and interest of the Lessee hereunder, and it shall be lawful for the Lessor forthwith to resume possession of the Leased Premises and the Lessee covenant to surrender the same forthwith upon demand. The Lessor shall simultaneously furnish to any other party to the Maintenance and Use Agreements, at their respective addresses set forth in the Maintenance and Use Agreements, a copy of any notice of default sent to the Lessee.

The exercise by the Lessor of the above right to terminate this Sub-Lease shall not release the Lessee from the performance of any obligation hereof maturing prior to the Lessor's actual entry into possession. No waiver by the Lessor of any right to terminate this Sub-Lease upon any default shall operate to waive such right upon the same or other default subsequently occurring.

11. Notices. Whenever either party shall be required to give notice to the other under this Sub-Lease, it shall be sufficient service of such notice to deposit the same in the United States mail, in an envelope duly stamped, registered and addressed to the other party or parties at the following addresses: (a) to Lessor: West Lafayette Community Development Corporation, Attention: _____, _____, West Lafayette, Indiana, with a copy to Richard Starkey, Barnes & Thornburg, LLP, 11 South Meridian Street, Indianapolis, Indiana 46204; (b) to the Lessee: West Lafayette Redevelopment Commission_ c/o _____.

The Lessor, the Lessee and the Trustee may by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

12. Successors or Assigns. All covenants of this Sub-Lease, whether by the Lessor or the Lessee, shall be binding upon the successors and assigns of the respective parties hereto.

13. No Merger of Estates. The parties hereby represent that it is their intent that the leasehold estate of the Lessee created pursuant to this Sub-Lease Agreement not merge with any fee interest the Lessee may currently have or may acquire in the Leased Premises.

14. Construction of Covenants. All provisions herein contained shall be construed in accordance with the provisions of the Redevelopment Act (collectively, the "Act"), and to the extent of inconsistencies, if any, between the covenants and agreements in this Sub-Lease and the provisions of the Act, the Act shall be deemed to be controlling and binding upon the Lessor and the Lessee; provided, however, any amendment to the Act after the date hereof shall not have the effect of amending this Sub-Lease.

15. Option to Purchase.

(a) The Lessor hereby grants to the Lessee the right and option, on any date prior to the expiration of this Sub-Lease, upon written notice to the Lessor, to purchase the Premises at a price equal to the amount required to enable the Lessor to pay all indebtedness related to the Premises, including the Bonds, with accrued and unpaid interest to the date on which such indebtedness will be redeemed and all premiums payable on the redemption thereof, and to enable the Lessor to liquidate, if the Lessor is to be liquidated, by paying the expenses and charges of liquidation and to pay the cost of transferring the Premises.

(b) Upon request of the Lessee, the Lessor shall furnish an itemized statement setting forth the amounts required to be paid by the Lessee on the next rental payment date in order to purchase the Premises in accordance with Section 15(a) hereof.

(c) If the Lessee exercises their option to purchase, it shall pay to the Trustee that portion of the purchase price which is required to pay the Bonds, including all premiums payable on the redemption thereof and accrued and unpaid interest. Such payment shall not be made until the Trustee gives to the Lessee a written statement that such amount will be sufficient to retire the Bonds, including all premiums payable on the redemption thereof and accrued and unpaid interest.

(d) The remainder of such purchase price shall be paid by the Lessee to the Lessor. Nothing herein contained shall be construed to provide that the Lessee shall be under any obligation to purchase the Premises, or under any obligation in respect to any creditors or other security holders of the Lessor.

(e) Upon the exercise of the option to purchase granted herein, the Lessor will upon such payment of the option price deliver, or cause to be delivered, to the Lessee documents conveying to the Lessee all of the Lessor's title to the property being purchased, as such property then exists, subject to the following: (i) those liens and encumbrances (if any) to which title to said property was subject when conveyed to the Lessor; (ii) those liens and encumbrances created by the Lessee or to the creation or suffering of which the Lessee consented, and liens for taxes or special assessments not then delinquent; and (iii) those liens and encumbrances on its part contained in this Sub-Lease. In the event of purchase of the Premises by the Lessee or conveyance of the same to the Lessee, the Lessee shall procure and pay for all surveys, title searches, abstracts, title policies and legal services that may be required, and shall furnish at the Lessee's expense all tax payments required for the transfer of title.

16. Option to Renew. The Lessor hereby grants to the Lessee the right and option to renew this Sub-Lease for a further like, or lesser, term, upon the same or like conditions as herein contained, and the Lessee may exercise this option by written notice to the Lessor given prior to the expiration of this Sub-Lease.

17. Transfer to the Lessees. In the event the Lessee has not exercised its option to purchase the Premises in accordance with Section 15 hereof and has not exercised its option to renew this Sub-Lease in accordance with Section 16 hereof, then, upon expiration of this Sub-Lease and upon full performance by the Lessee of its obligations under this Sub-Lease, the Premises shall become the absolute property of the Lessee, and, upon the Lessee's request, the Lessor shall execute proper instruments conveying to the Lessee all of the Lessor's title thereto

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Sub-Lease to be executed for and on their behalf on the date first written above.

LESSOR:

WEST LAFAYETTE COMMUNITY
DEVELOPMENT CORPORATION

By: _____

Printed: _____

Its: _____

LESSEE:

CITY OF WEST LAFAYETTE
REDEVELOPMENT COMMISSION

By: _____

Printed: _____

Its: _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared _____ and _____, personally known to be the President and Secretary, respectively, of the West Lafayette Community Development Corporation (the “Lessor”), and acknowledged the execution of the foregoing Sub-Lease for and on behalf of the Lessor.

WITNESS my hand and notarial seal this ____ day of _____, 2015.

(Seal)

(Written Signature)

(Printed Signature)
Notary Public

My Commission expires:

My county of residence is:

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared _____ and _____, personally known to be the President and Secretary, respectively, of the City of West Lafayette Redevelopment Commission (the "Redevelopment Commission"), and acknowledged the execution of the foregoing Sub-Lease for and on behalf of the Redevelopment Commission.

WITNESS my hand and notarial seal this ____ day of _____, 2015.

(Seal)

(Written Signature)

(Printed Signature)
Notary Public

My Commission expires:

My county of residence is:

I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

/s/ Richard C. Starkey
Richard C. Starkey

This instrument was prepared by Richard C. Starkey, Barnes & Thornburg LLP, 11 S. Meridian Street, Indianapolis, Indiana 46204.

EXHIBIT A

DESCRIPTION OF THE PROJECT

EXHIBIT B

DESCRIPTION OF REAL ESTATE

EXHIBIT C

**ADDENDUM TO SUB-LEASE AGREEMENT AMONG
WEST LAFAYETTE COMMUNITY DEVELOPMENT CORPORATION, AS LESSOR
AND WEST LAFAYETTE REDEVELOPMENT COMMISSION, AS LESSEE**

THIS ADDENDUM (this "Addendum"), is made and dated as of this ____ day of _____, 20__, by and between the WEST LAFAYETTE COMMUNITY DEVELOPMENT CORPORATION, as lessor (the "Lessor"), an Indiana nonprofit corporation organized and existing under the laws of the State of Indiana and the CITY OF WEST LAFAYETTE REDEVELOPMENT COMMISSION (the "Redevelopment Commission"), the governing body of the City of West Lafayette Department of Redevelopment, as Lessee (the "Lessee")

WITNESSETH:

WHEREAS, the Lessor entered into a lease with the Lessee dated as of _____, 2015 (the "Sub-Lease"); and

WHEREAS, it is provided in the Sub-Lease that there shall be endorsed thereon the date the Leased Premises became available for use and occupancy.

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the undersigned as follows:

Section 1. Availability of Leased Premises. The date upon which the Leased Premises became available for use and occupancy is _____.

Signature Page Follows

IN WITNESS WHEREOF, the undersigned have caused this Addendum to be executed for and on their behalf as of the day and year first above written.

LESSOR:

WEST LAFAYETTE COMMUNITY
DEVELOPMENT CORPORATION

By: _____

Printed: _____

Its: _____

LESSEE:

CITY OF WEST LAFAYETTE
REDEVELOPMENT COMMISSION

By: _____

Printed: _____

Its: _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared _____ and _____, personally known to be the President and Secretary, respectively, of the West Lafayette Community Development Corporation (the "Lessor"), and acknowledged the execution of the foregoing Sub-Lease for and on behalf of the Lessor.

WITNESS my hand and notarial seal this ____ day of _____, 20__.

(Seal) _____
(Written Signature)

(Printed Signature)
Notary Public

My Commission expires: _____ My county of residence is: _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared _____ and _____, personally known to be the President and Secretary, respectively, of the City of West Lafayette Redevelopment Commission (the "Redevelopment Commission"), and acknowledged the execution of the foregoing Sub-Lease for and on behalf of the Redevelopment Commission.

WITNESS my hand and notarial seal this ____ day of _____, 20__.

(Seal)

(Written Signature)

(Printed Signature)
Notary Public

My Commission expires:

My county of residence is:

I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

/s/ Richard C. Starkey
Richard C. Starkey

This instrument was prepared by Richard C. Starkey, Barnes & Thornburg LLP, 11 S. Meridian Street, Indianapolis, Indiana 46204.

EXHIBIT D

**ADDENDUM TO SUB-LEASE AGREEMENT AMONG
WEST LAFAYETTE COMMUNITY DEVELOPMENT CORPORATION, AS LESSOR
AND WEST LAFAYETTE REDEVELOPMENT COMMISSION, AS LESSEE**

THIS ADDENDUM (this "Addendum"), is made and dated as of this ____ day of _____, 20__, by and between the WEST LAFAYETTE COMMUNITY DEVELOPMENT CORPORATION, as lessor (the "Lessor"), an Indiana nonprofit corporation organized and existing under the laws of the State of Indiana and the CITY OF WEST LAFAYETTE REDEVELOPMENT COMMISSION (the "Redevelopment Commission"), the governing body of the City of West Lafayette Department of Redevelopment, as Lessee (the "Lessee")

WITNESSETH:

WHEREAS, the Lessor entered into a lease with the Lessee dated as of _____, 2015 (the "Sub-Lease"); and

WHEREAS, it is provided in the Sub-Lease that there shall be endorsed thereon the date of the first rental payment, the ending date of the term of the Sub-Lease with respect to the Existing Real Estate and the Existing Improvements, and the adjusted annual rental.

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the undersigned as follows:

Section 1. The Annual Rental. The adjusted rental is set forth on Appendix I attached hereto.

Signature Page Follows

IN WITNESS WHEREOF, the undersigned have caused this Addendum to be executed for and on their behalf as of the day and year first above written.

LESSOR:

WEST LAFAYETTE COMMUNITY
DEVELOPMENT CORPORATION

By: _____

Printed: _____

Its: _____

LESSEE:

CITY OF WEST LAFAYETTE
REDEVELOPMENT COMMISSION

By: _____

Printed: _____

Its: _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared _____ and _____, personally known to be the President and Secretary, respectively, of the West Lafayette Community Development Corporation (the "Lessor"), and acknowledged the execution of the foregoing Sub-Lease for and on behalf of the Lessor.

WITNESS my hand and notarial seal this ____ day of _____, 20__.

(Seal) _____
(Written Signature)

(Printed Signature)
Notary Public

My Commission expires: _____ My county of residence is:

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for this City and State, personally appeared _____ and _____, personally known to be the President and Secretary, respectively, of the City of West Lafayette Redevelopment Commission (the "Redevelopment Commission"), and acknowledged the execution of the foregoing Sub-Lease for and on behalf of the Redevelopment Commission.

WITNESS my hand and notarial seal this ____ day of _____, 20__.

(Seal) _____
(Written Signature)

(Printed Signature)
Notary Public
My Commission expires: _____ My county of residence is:

I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

/s/ Richard C. Starkey
Richard C. Starkey

This instrument was prepared by Richard C. Starkey, Barnes & Thornburg LLP, 11 S. Meridian Street, Indianapolis, Indiana 46204.

Appendix I to Addendum to Sub-Lease

Rental Schedule

EXHIBIT B

(FORM OF NOTE)

**TIF SUPPORT FACILITY PROMISSORY NOTE
(NON-REVOLVING LINE OF CREDIT LOAN)**

\$62,700,000.00

West Lafayette, Indiana
Date: _____, 201_
Due: _____, 2040

FOR VALUE RECEIVED, the West Lafayette Redevelopment Commission, the governing body of a duly constituted special taxing district known as the West Lafayette Redevelopment District, (“Maker”), hereby promises to pay to the order of the Purdue Research Foundation, an Indiana corporation, (“Payee”), on or before the Maturity Date, the principal sum of Sixty-Two Million Seven Hundred Thousand Dollars and No Cents (\$62,700,000.00) or such lesser sum as may be advanced and outstanding from time to time as shown in the records of Payee, together with fees and interest prior to the Maturity Date, upon the terms set forth in this Promissory Note (“Note”) and the TIF Support Facility Agreement Concerning the State Street Redevelopment Project (“Credit Agreement”) to which this Note is attached as Exhibit 1.

1. **DEFINITIONS.** In addition to the terms defined elsewhere in this Note and the Credit Agreement, capitalized terms used but not otherwise defined have the meanings ascribed to them in the Project Development Agreement by and among the Maker, Payee, City of West Lafayette, Indiana (“City”) and The Trustees of Purdue University (“University”), as the same may be amended or supplemented from time to time, (collectively, “PDA”).

“**Draw**” means a disbursement made to Maker pursuant to this Note.

“**Business Day**” means any day other than a Saturday, Sunday or other holiday on which Payee is closed.

2. **REQUESTS FOR DRAWS.**

a. Subject to the Step-Down and Roll-Off provisions in the Credit Agreement Payee shall make advances of the proceeds of this Note to Maker prior to the Maturity Date if Payee receives, at the time and in accordance with the terms of Article 6 of the Credit Agreement, a written draw request (“Draw Request”) in the form set forth on Exhibit 2 attached to the Credit Agreement, specifying the amount of the Draw and the reasons therefor as set forth in Article 5 of the Credit Agreement.

b. Each Draw Request, which will be irrevocable once received, must be received by Payee not later than 3:00 p.m., West Lafayette, Indiana time, at least ten (10) days prior to the day on which such Draw is to be made. All notices, (including Draw Requests) received by the Payee after 3:00 p.m. West Lafayette, Indiana time (or such other time as is specified in any section hereof) on a Business Day shall be deemed received on the next Business Day.

c. Payee shall advance to Maker the amount so requested unless Payee determines that, as of the date of such Draw Request, any term or condition of the Credit Agreement is not fulfilled Maker is in default under the Credit Agreement. All Draws will be made to Maker by wire transfer to Maker’s bank account, or by such other method as the Parties may from time to time agree.

3. **CREDIT LINE.** Payee has approved a non-revolving credit line to the Maker in a principal amount not to exceed the face amount of this Note. The credit line is subject to the Step-Down and Roll-Off provisions in the Credit Agreement and exercised in the form of Draws made from time to time by Payee to the Maker. This Note evidences the Maker’s obligation to repay those Draws. The aggregate principal amount of debt evidenced by this Note shall be the amount reflected from time to time in the records of Payee but shall not exceed the face amount of this Note.

4. **INTEREST.** Interest shall accrue on any principal balance outstanding under this Note from and including the date of any Draw of loan proceeds to but excluding the date on which such principal balance is repaid, at a rate per annum equal to that established by Section 5.4.1. of the PDA. All computations of interest and fees under this Note shall be made on the basis of a year of three hundred sixty (360) days and calculated for the actual days elapsed.

5. **REPAYMENT.** Maker will repay this Note as determined in accordance with Articles 9 and 11 of the Credit Agreement. Interest will be computed on the unpaid principal balance from the date of each Draw.

a. In any and all events, the entire remaining balance of this Note is due and payable on the Maturity Date provided, however, that Maker's obligation to make payment to Payee for Draws made pursuant to Sections 5.4.2(b), (c) and (d) of the PDA shall at all times be limited to available Dedicated TIF 2 Revenue. Payee's acceptance of any payment less than payment in full of all amounts due and owing at that time shall not constitute a waiver of Payee's right to receive payment in full at that or any other time. All amounts which shall be paid with respect to this Note shall be applied first to any outstanding commitment fees, second to the payment of interest due on the balance of the principal sum or so much thereof as shall from time to time remain unpaid, third to the principal amount of this Note which may then currently be due and payable, fourth to any late charges then due and payable under this Note or the Credit Agreement and last to any costs of collection and expenses reimbursable by the Maker to the Payee.

b. Each payment due under this Promissory Note shall be made without set-off or counterclaim in immediately available funds on a Business Day not later than 3:00 p.m. West Lafayette, Indiana time. All sums received after such time shall be deemed received on the next Business Day. Any payment due on a day that is not a Business Day shall be made on the next Business Day.

c. Maker agrees not to send Payee payments marked "paid in full", "without recourse", or similar language. If Maker sends such a payment, Payee may accept it without losing any of Payee's rights under this Note, and Maker will remain obligated to pay any further amount owed to Payee. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to Purdue Research Foundation, Kurz Purdue Technology Center, 1281 Win Hentschel Blvd. West Lafayette, IN 47906, ATTN: Chief Financial Officer and Treasurer.

d. All sums payable hereunder will be payable with attorneys' fees and costs of collection and without relief from valuation and appraisal laws. Said attorneys' fees shall be attorneys' fees incurred by Payee, including but not limited to, fees incurred to determine priorities among liens. Maker hereby waives presentment for payment, protest, notice of protest, notice of non-payment and all other notices or demands in connection with the delivery, acceptance, performance, or default of this Note, notice of Draws made, credit extended, collateral received or delivered, or other action taken in reliance hereon and all other demands and notices of any description.

6. **PREPAYMENT.** Maker may prepay all or any portion of the amount outstanding under this Note at any time without premium or penalty.

7. **DEFAULT RATE.** Upon the failure of Maker to make any required payment on the Note as provided for in Articles 9 and 11 of the Credit Agreement for a period of thirty (30) days after due and during the continuation thereof, and after maturity, including maturity upon

acceleration, Payee, at its option, may, if permitted under applicable law, do one or both of the following: (i) increase the interest rate under this Note to the rate that is five percent (5%) above the rate that would otherwise be payable hereunder, and (ii) add any unpaid accrued interest to principal and such sum will bear interest therefrom until paid at the rate provided in this Note (including any increased rate). The interest rate under this Note will not exceed the maximum rate permitted by applicable law under any circumstances.

8. **FEES.** Maker shall pay Payee a non-refundable commitment fee for the credit line evidenced by this Note determined by and payable in accordance with the provisions of Article 7 of the Credit Agreement.

9. **NOTICES.** All notices to be given pursuant to this Note will be sufficient if given by personal service, or by guaranteed overnight delivery service, or by telecopy, or by postage prepaid mailing by certified or registered mail with return receipt requested, to the Parties as set forth in Article 15.4 of the Credit Agreement, or to such other address as a party may request by notice given pursuant to this Section. Any time period provided in the giving of any notice hereunder shall commence upon the date of personal service, the day after delivery to the guaranteed overnight delivery service, the day after sending the telecopy, or two (2) days after mailing certified or registered mail. However, any failure to give notice in accordance with the terms of this Section will not invalidate such notice if such notice was in fact in writing and actually received by the party to whom it was directed.

10. **GOVERNING LAW.** THIS PROMISSORY NOTE SHALL BE A CONTRACT MADE UNDER AND GOVERNED BY THE INTERNAL LAWS OF THE STATE OF INDIANA APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE, WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES. Whenever possible each provision of this Note will be interpreted in such a manner as to be effective, consistent with the PDA and Credit Agreement, and valid upon applicable law, but if any provision of this Note will be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition without invalidating.

11. **SEVERABILITY.** The provisions of this Note are intended to be severable. If any provision of this Note is held invalid or unenforceable in whole or in part in any jurisdiction, that provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions of this Note in any jurisdiction.

12. **EVIDENCE OF CREDIT EXTENSIONS.** Payee shall record in its records the date, amount and maturity of each Draw and the amount of each payment of principal and interest made by Maker with respect to each Draw and Payee's record shall be conclusive absent manifest error. Any statement of Payee to Maker setting forth Maker's account regarding the Draws and payments shall be considered true and correct and binding on Maker unless Payee is notified in writing of any discrepancy or exception within thirty (30) days from the mailing by Payee to Maker of any such quarterly statement. Notwithstanding the foregoing, the failure to make, or an error in making, a notation with respect to any Draw shall not limit or otherwise affect the obligations of Maker under this Note or the Credit Agreement.

13. **RELATED DOCUMENTS.** This Note is made pursuant to a certain TIF Support Facility Agreement concerning the State Street Redevelopment Project dated as of _____, 201_, (as may be amended from time to time hereafter, the "Credit Agreement") between Maker and Payee. The terms, conditions and definitions of the Credit Agreement are incorporated in this Note by this reference. If any installment due on this Note is not paid when due, or if there should be any default under the Credit Agreement which is not cured within the grace period (if any) allowed for the cure thereof a default will occur under this Note and the unpaid principal balance hereof together with interest accrued thereon, at the option of the Payee, shall immediately become due and payable without notice or demand.

This Note and the Credit Agreement referred to above shall remain separate obligations of Maker and shall be separately enforceable according to their respective terms. The Payee may institute separate proceedings with respect to each simultaneously or in such order and such times as the holder may elect. The pendency of any proceedings with respect to this Note or any other obligation shall not be grounds for the abatement or for hindering, delaying or preventing any

proceedings with respect to any other obligation. Default under each shall constitute a separate cause of action and the institution of proceedings upon one, but not all, shall not be construed as splitting a cause of action by the holder.

14. **WAIVER.** Maker waives demand, presentment, notice of dishonor and protest, and consents to any extension or postponement of time of its payment without limit as to the number or period. No delay on the part of Payee in the exercise of any right or remedy shall operate as a waiver. No single or partial exercise by Payee of any right or remedy shall preclude any other future exercise of it or the exercise of any other right or remedy. No waiver or indulgence by Payee of any default shall be effective unless in writing and signed by Payee, nor shall a waiver on one occasion be construed as a bar to or waiver of that right on any future occasion.

15. **MISCELLANEOUS.** This Note shall be binding on Maker and Maker's successors, and shall inure to the benefit of Payee, its successors and assigns. Section headings are for convenience of reference only and shall not affect the interpretation of this Note. This Note and the Credit Agreement, as construed in a manner consistent with the PDA, embody the entire agreement between Maker and Payee regarding the terms of the loan evidenced by this Note and supersede all oral statements and prior writings relating to that Loan.

16. **JURISDICTION AND VENUE.** Maker hereby irrevocably consents to the exclusive jurisdiction of any state or federal court in Tippecanoe County, Indiana, and Maker acknowledges and agrees that the venue provided above is the most convenient forum for both Payee and Maker. Maker waives any objection to venue and any objection based on a more convenient forum in any action instituted under this Note, the Credit Agreement or the PDA.

17. **WAIVER OF JURY TRIAL. EACH OF THE MAKER AND THE PAYEE HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS CREDIT AGREEMENT/ NOTE, AND ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HEREWITH OR THEREWITH OR ARISING FROM ANY LENDING**

**RELATIONSHIP EXISTING IN CONNECTION WITH ANY OF THE FOREGOING,
AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED
BEFORE A COURT AND NOT BEFORE A JURY.**

Maker is signing this Note on the date first above written.

MAKER: WEST LAFAYETTE REDEVELOPMENT
COMMISSION

President

Attest: _____
Secretary