

RESOLUTION NO. RC2012-8

RESOLUTION OF THE CITY OF WEST LAFAYETTE, INDIANA, REDEVELOPMENT COMMISSION APPROVING AN AGREEMENT FOR THE DISPOSITION OF CERTAIN REAL PROPERTY LOCATED IN THE KALBERER/CUMBERLAND/BLACKBIRD ECONOMIC DEVELOPMENT AREA (SUBJECT TO THE PRIOR ACQUISITION THEREOF)

WHEREAS, the City of West Lafayette Redevelopment Commission (the "Commission"), governing body of the City of West Lafayette Department of Redevelopment (the "Department") and the Redevelopment District of the City of West Lafayette, Indiana (the "Redevelopment District"), exists and operates under the provisions of I.C. 36-7-14, as amended from time to time; and

WHEREAS, the Commission proposes to dispose of certain real property (the "Real Property") located in the Kalberer/Cumberland/Blackbird Economic Development Area ("Area") described in Exhibit A hereto (subject to the prior acquisition thereof) pursuant to the provisions of IC 36-7-14-22, as amended; and

WHEREAS, the Commission caused two separate appraisals (the "Appraisals") to be made of the sale value of the Real Property by two independent appraisers, namely, Dale Webster d/b/a Cornerstone Appraisal of Lafayette, Indiana, and Thomas P. Morlan d/b/a R. E. Research Associates of Lafayette, Indiana (collectively, the "Appraisers"); and

WHEREAS, the Commission caused to be published in accordance with IC 36-7-14-22, as amended, and IC 5-3-1, as amended, a notice of disposition (the "Notice of Disposition") in the form attached hereto as Exhibit B; and

WHEREAS, the Commission prepared an offering sheet in the form of Exhibit C hereto, reflecting a sale price that is not less than the average of the two Appraisals and various conditions relating to the proposed purchaser's use of the Real Property; and

WHEREAS, offers for the Real Property were due not later than 8:30 a.m. on June 20, 2012 and the Commission received no responses to the Notice of Disposition;

NOW THEREFORE, BE IT RESOLVED by the City of West Lafayette Redevelopment Commission as follows:

1. The Commission hereby finds and determines that the disposition of the Real Property (subject to the prior acquisition thereof by the Commission) will further the economic development purposes of the Area.

2. Beginning on July 21, 2012 the President of the Commission is hereby authorized and directed to enter into an agreement, substantially in the form of Exhibit D hereto, with Automotive Robotics Indiana Labs, Inc. and Purdue Research Foundation to effectuate the disposition of the Real Property, with such changes therein as the President, with the advice of the Commission's counsel, may find necessary or appropriate and in furtherance of the economic development purposes of the Area, which findings will be conclusively evidenced by the President's execution of the Agreement. The Secretary of the Commission is authorized and directed to attest the President's execution of the Agreement.

3. The President is authorized and directed to take all such actions and to execute and deliver and make all necessary or desirable further agreement, certificates, documents, filings, papers and recordings as are necessary or desirable to carry out the purposes of this Resolution, in such forms as the President may deem proper, which propriety will be conclusively evidenced by their execution.

4. The foregoing recitals and all exhibits are incorporated into this Resolution by this reference. If any section, paragraph or provision of this Resolution is held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision will not affect any of the remaining provisions of this Resolution.

5. This Resolution shall be in full force and effect from and after its adoption by the Commission.

ADOPTED AND APPROVED at a meeting of the City of West Lafayette Redevelopment Commission held on the 11th day of July, 2012.

CITY OF WEST LAFAYETTE, INDIANA
REDEVELOPMENT COMMISSION

BY: _____
Lawrence T. Oates, President

ATTEST:

Linda M. Sorensen, Secretary

EXHIBIT A

Land Description: +/- 5 Acres

A part of the Northeast Quarter of Section 1, Township 23 North, Range 5 West, City of West Lafayette, Tippecanoe County, Indiana, more completely described as follows:

Commencing at the Southeast Corner of said quarter section; thence North 00 degrees 17 minutes 18 seconds West (bearings based upon a preliminary plat for Purdue Research Park Phase III, Part II dated June 15, 2009, by The Schneider Corporation) along the east line of said quarter section a distance of 1562.47 feet; thence South 89 degrees 42 minutes 42 seconds West a distance of 70.00 feet to the Point of Beginning; thence South 89 degrees 42 minutes 43 seconds West a distance of 418.23 feet; thence North 00 degrees 17 minutes 18 seconds West a distance of 486.34 feet; thence North 89 degrees 42 minutes 42 seconds East a distance of 448.23 feet; thence South 00 degrees 17 minutes 18 seconds East a distance of 456.35 feet; thence southwesterly along a curve to the right (said curve having a radius of 30.00 feet, a chord distance of 42.43 feet, a chord bearing of South 44 degrees 42 minutes 42 seconds West, and an arc distance of 47.12 feet) to the Point of Beginning; containing 5.00 acres, more or less.

EXHIBIT C

OFFERING SHEET

CITY OF WEST LAFAYETTE REDEVELOPMENT COMMISSION

The City of West Lafayette Redevelopment Commission (the "Commission") is offering the property described in Exhibit A hereto (the "Offered Property") for sale (subject to the Commission's prior acquisition thereof) to the successful bidder.

The bidder or bidders shall prepare a bid for the sale of all of the Offered Property. The following terms and conditions apply to the bids:

Minimum Offering Price: Each bid must propose a purchase price of not less than \$875,000.00.

Required Uses: Commercial development to build a facility for a laboratory in the automotive robotics field and approved by the Commission.

Conditions of Bid Acceptance: The Commission will publicly open all written offers, and the bid price will be read aloud and the bidder's general plan will then be read on June 20, 2012. The Commission will then review all proposals and make an award or reject all offers. Bid proposals must meet the following conditions:

- (a) The successful bidder must be prepared to close on the purchase of the Offered Property within thirty (30) days after award by the Commission.
- (b) The successful bidder must propose the development of the Offered Property for a facility for a laboratory in the automotive robotics field acceptable to the Commission.
- (c) No proposal will be eligible for consideration that does not meet the minimum offering price.

Conditions to Closing: The Commission's obligation to convey the Offered Property to the successful bidder is subject to the following conditions:

- (a) Acquisition of Offered Property by Commission.
- (b) Payment of the full purchase price for the Offered Property by the successful bidder at closing.
- (c) All agreements relating to the sale and use of the property will be subject to review by attorneys for the Commission to assure compliance with all applicable laws and agreements to which the Commission and City are subject.

EXHIBIT D

AGREEMENT FOR TRANSFER OF PROPERTY

THIS AGREEMENT is made and entered into as of the ____ day of July, 2012, by and among the CITY OF WEST LAFAYETTE, acting by and through its REDEVELOPMENT COMMISSION (the "Commission"), PURDUE RESEARCH FOUNDATION, an Indiana corporation (formed and existing under the Indiana Foundation or Holding Companies Act, Acts of 1921, ch. 246) ("PRF"), and AUTOMOTIVE ROBOTICS INDIANA LABS, INC., an Indiana corporation ("ARIL").

WITNESSETH:

WHEREAS, the Commission previously published a notice of disposition of real estate as described in the offering sheet attached hereto as Exhibit A (the "Real Property"), subject to the prior acquisition thereof; and

WHEREAS, the Real Property is situated within the corporate limits of the City of West Lafayette, Indiana (the "City"), and the Kalberer/Cumberland/Blackbird Economic Development Area therein (the "Area"); and

WHEREAS, PRF is the current owner of the Real Property; and

WHEREAS, pursuant to such offering sheet, the Commission sought written offers for the purchase of the Real Property and the acquisition and construction of laboratory facilities for automotive robotics (the "Offered Property"); and

WHEREAS, no responsive offers were received by the Commission, and more than 30 days have passed since the date upon which offers were due to be submitted; and

WHEREAS, by this Agreement, ARIL represents that it will invest, or cause to be invested, at least \$10,000,000.00 (the "Investment") in connection with the acquisition and construction of automotive robotic laboratory facilities in the Area (the "Lab"); and

WHEREAS, by this Agreement, ARIL further represents that it will create, or cause to be created, a minimum of 20 full-time equivalent jobs at the Lab; and

WHEREAS, ARIL is making the Investment in consideration of (i) the sale of the Offered Property to ARIL at the ARIL Purchase Price specified in Section 1(b) hereof (the "ARIL Purchase Price"), and (2) the receipt of certain other economic development benefits and incentives; and

WHEREAS, the Commission desires to enter into this Agreement in lieu of PRF having to convey the Real Property to the Commission and the Commission having to immediately reconvey the Offered Property to ARIL; and

WHEREAS, by this Agreement, the Commission acknowledges the Investment ARIL will make, or cause to be made, in the Area, and the jobs ARIL will create, or cause to be

created, as a result thereof, and recognizes the benefits that will accrue to the City and its citizens; and

WHEREAS, by this Agreement, the Commission represents that it authorized all of the actions and transactions contemplated by this Agreement by its Resolution No RC2012-6, adopted by the Commission on May 23, 2012, and by its Resolution No. RC2012-8, adopted by the Commission on July 11, 2012, among other things;

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:

1. Conveyance; Reconveyance. By and through this Agreement:

(a) PRF will be deemed to have sold and transferred all of its right, title and ownership interest in the Real Property to the Commission at the Commission Purchase Price, namely \$875,000.00, payable by the Commission as provided in Section 2 hereof; and

(b) Immediately upon the deemed transfer of the Offered Property from PRF to the Commission, the Commission will be deemed to have sold and transferred all of its right, title and ownership interest in the Offered Property to ARIL at the ARIL Purchase Price, namely \$1.00.

2. Use of Tax Increment; Closing. The Commission will use, or cause to be used, not to exceed \$875,000.00 of the Kalberer/Cumberland/Blackbird Tax Increment Financing District Surplus Fund to purchase the Real Property from PRF. The execution and delivery of this Agreement and the purchase of the Real Property and sale of the Offered Property will occur on July __, 2012, or on such later date as ARIL, PRF and the President of the Commission mutually agree (the "Closing").

3. No Transfer of Title to Commission; Liabilities.

(a) The parties hereto acknowledge and agree that, because the agreements set forth herein with respect to the Commission may be satisfied without (1) an actual conveyance of the Real Property from PRF to the Commission and a reconveyance of the Offered Property from the Commission to ARIL, and (2) without the exchange of deeds for the Real Property from PRF to the Commission and for the Offered Property from the Commission to ARIL (and the related responsibilities and duties with respect thereto), no actual transfer of title to the Real Property to the Commission will occur as part of this Agreement. Notwithstanding anything in this Agreement to the contrary, at the Closing, PRF will deed the Real Property directly to ARIL.

(b) ARIL and PRF understand and agree that the Commission will have no liability, including environmental liability, with respect to the purchase and sale of the Real Property and the Offered Property, respectively, as contemplated by this Agreement. ARIL agrees to hold the Commission and the City harmless from any and all liability, including environmental liability,

the Commission or the City might incur as a result of the purchase and sale of the Real Property and the Offered Property, respectively, and agrees to indemnify the Commission and the City for all costs it might incur as a result of the Commission or the City being deemed to have acquired right, title or ownership interest in the Real Property or the Offered Property as a result of the purchase and sale of the Real Property and the Offered Property and agrees to indemnify the Commission and the City for all costs it might incur as a result of the same. Notwithstanding the foregoing, if any action or proceeding is brought against the Commission or the City in respect of which indemnity may be sought hereunder, the person seeking indemnification (Commission and/or City) will give notice of that action or proceeding to ARIL in writing, and ARIL, upon receipt of that notice, will have the right to assume the defense of such action or proceeding. An indemnified party (the Commission and/or the City) at its own expense may employ separate counsel and participate in the defense of such action or proceeding. ARIL will not be liable for any settlement made without ARIL's written consent.

4. Miscellaneous.

(a) This Agreement may be executed in several counterparts, each of which will be an original, and all of which will constitute but one and the same agreement.

(b) This Agreement will be construed in accordance with the laws of the State of Indiana.

(c) If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property, is held invalid, such invalidity will not affect the application or validity of any other provisions, covenants, agreements or portions of this Agreement and, to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

(d) The foregoing recitals, including the representations of the Commission, ARIL and PRF contained therein, are essential to this Agreement and are incorporated into this Agreement by this reference.

(e) Whenever the word "including" is used in this Agreement, it is used without intending any limitation; it does not mean "comprised of" or "consisting of." Whenever the word "parties" is used in this Agreement, it is used to mean the City and the Commission, ARIL and PRF, and each of which is a "party."

(f) Notices to the parties must be in writing and mailed by certified mail, return receipt requested, or delivered by hand, with a written receipt obtained from the person receiving delivery of the notice. Notices to ARIL should be directed to 5 Altorfer Lane, East Peoria, IL 61611, or at such other address as ARIL may provide in writing to the Commission and the City and PRF. Notices to PRF should be directed to Kurz Purdue Technology Center, 1281 Win Henschel Blvd., West Lafayette, IN 47906, or at such other address as PRF may provide in writing to the Commission and the City and ARIL. Notices to the Commission and the City should be directed to them in care of the Clerk-Treasurer, City of West Lafayette, 609 W.

Navajo, West Lafayette, Indiana 47906, or at such other address as the Commission and the City may provide in writing to ARIL and PRF. Copies of all notices must also be provided to: special counsel to the Commission, Thomas L. Brooks, Jr, P.O. Box 650, Lafayette, IN 47902.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

CITY OF WEST LAFAYETTE
DEPARTMENT OF REDEVELOPMENT

Lawrence T. Oates, President
West Lafayette Redevelopment Commission

ATTEST:

Linda M. Sorensen, Secretary
West Lafayette Redevelopment Commission

AUTOMOTIVE ROBOTICS INDIANA LABS,
INC., an Indiana corporation

By: _____

Printed: _____

Its: _____

PURDUE RESEARCH FOUNDATION
an Indiana corporation (formed and existing
under the Indiana Foundation or Holding
Companies Act, Acts of 1921, ch. 246)

By: _____
Joseph B. Hornett
Senior Vice President, Treasurer, & Chief
Operating Officer

ATTEST:

By: _____
Judith A. Hall
Corporate Secretary

Exhibit A

OFFERING SHEET

CITY OF WEST LAFAYETTE REDEVELOPMENT COMMISSION

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1330 Win Henschel Blvd., Ste. 100 West Lafayette, IN 47906.4156 Phone 765.448.6661 Fax 765.448.6665

EXHIBIT A

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Prepared By: Mark S. Hennessey, PLS
May 17, 2012

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www.schneidercorp.com

Indianapolis, Indiana
Historic Fort Harrison
8901 Otis Avenue
Indianapolis, IN 46216

West Lafayette, Indiana
1330 Win Henschel Boulevard
Suite 100
West Lafayette, IN 47906

Ankeny, Iowa
1705 North Ankeny Boulevard
Ankeny, IA 50023

Charlotte, North Carolina
8001 Arrowidge Boulevard
Charlotte, NC 28273