

RESOLUTION NO. RC 2016-7

**RESOLUTION OF THE CITY OF WEST LAFAYETTE REDEVELOPMENT
COMMISSION AMENDING LEASE PAYMENTS AND APPROVING
AMENDMENT NO. 1 TO THE PDA, A SUPPLEMENTAL MEMORANDUM OF
UNDERSTANDING AND A MEMORANDUM OF AGREEMENT**

WHEREAS, on December 16, 2015, the West Lafayette Redevelopment Commission (the “Commission”) approved and adopted its Resolution No. 2015-20, approving, *inter alia*, a sublease with the West Lafayette Community Development Corporation (the “Sublease”); and

WHEREAS, on January 6, 2016, the Commission held a public hearing and determined to increase the Sublease payments from \$17,100,000 to \$19,600,000; and

WHEREAS, a public hearing was held on this day regarding a further increase in the Sublease payments from \$19,600,000 to \$24,600,000 (the “New Rental Amount”); and

WHEREAS, the Commission desires to approve the New Rental Amount; and

WHEREAS, the Commission previously entered into the Project Development Agreement Concerning the State Street Redevelopment Project, effective as of May 20, 2015, as amended by an Amended and Restated Project Development Agreement Concerning the State Street Redevelopment Project, effective as of May 20, 2015 (collectively, the “Project Development Agreement”), among the Interlocal Cooperation Board of the City of West Lafayette, Indiana and the Trustees of Purdue University (the “Board”), the City of West Lafayette, Indiana (the “City”), the Commission, The Trustees of Purdue University (“Purdue University”) and the Purdue Research Foundation (“PRF”); and

WHEREAS, the parties to the Project Development Agreement have agreed to enter into Amendment No. 1 to Amended and Restated Project Development Agreement (the “Amendment No. 1”), as presented to this meeting; and

WHEREAS, there has been submitted to this meeting of the Commission a “Memorandum of Agreement Concerning Flow of Funds for Reimbursement and Funding of Pre-Development Expenses” to be dated as of March 11, 2016, by and among the Board, the City, the Commission, Purdue University and the PRF (the “MOA”); and

WHEREAS, the Commission desires to approve the MOA; and

WHEREAS, the City and Purdue University have previously entered into a certain “Memorandum of Understanding between the City of West Lafayette and the Trustees of Purdue University Concerning the State Street Redevelopment Project” (the “MOU”), which MOU is being supplemented by the “Supplemental Memorandum of Understanding Concerning Change Order No. 1 Under Public-Private Agreement for State Street Redevelopment Project;” (the “MOU-S”), as presented to this meeting; and

WHEREAS, although the Commission is not a party to the MOU-S, portions of the MOU-S involve the utilization of certain tax increment revenues of the Commission and therefore it is desirable for the Commission to review and approve the MOU-S.

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

1. The Commission hereby finds and determines that the terms of the Sublease are based upon the value of the premises under the Sublease, and that the New Rental Amount to be paid by the Commission, pursuant to the terms of the Sublease, is fair and reasonable, and that the use of the premises under the Sublease throughout the term of the Sublease will serve the public purpose of the City and is in the best interests of its residents.

2. The Amendment No. 1, in the form presented to this meeting be, and hereby is, ratified and approved. The President and Secretary of the Commission are hereby authorized and directed to execute and attest, respectively, and deliver the Amendment No. 1, with such changes thereto as the President of the Commission deems necessary or advisable, in the name and on behalf of the Commission.

3. The MOA, in the form presented to this meeting be, and hereby is, ratified and approved. The President and Secretary of the Commission are hereby authorized and directed to execute and attest, respectively, and deliver the MOA, with such changes thereto as the President of the Commission deems necessary or advisable, in the name and on behalf of the Commission.

4. The Commission has reviewed the MOU-S as presented to this meeting, and hereby approves the terms set forth in the MOU-S as it pertains to the Commission.

Adopted this 10th day of March, 2016.

CITY OF WEST LAFAYETTE
REDEVELOPMENT COMMISSION

By: _____
Lawrence T. Oates, President

Attest:

Stephen B. Curtis, Secretary

**AMENDMENT NO. 1
TO AMENDED AND RESTATED
PROJECT DEVELOPMENT AGREEMENT**

THIS AMENDMENT NO. 1 TO AMENDED AND RESTATED PROJECT DEVELOPMENT AGREEMENT (this “Amendment”) is made and entered into as of the _____ day of March, 2016, 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 herein) concerning the State Street Redevelopment Project effective as of May 20, 2015 (the “Agreement”), and it amends the Agreement in the manner set forth below. Terms used but not otherwise defined herein have the meanings ascribed to them in the Agreement.

RECITALS

WHEREAS, in the course of completing the final steps of the Procurement and preparing for Commercial Close, the Joint Management Team has, in consultation with the selected Developer, identified a number of measures that, if taken, would enable the Developer to construct more scope within the Affordability Cap, including the additional Perimeter Parkway segments, which has long been an objective of the Parties; and

WHEREAS, the Joint Management Team has negotiated the terms and conditions of an expanded scope package through a change order to the original proposal submitted by the Developer, which would take the form of “Change Order No. 1” under the PPA; and

WHEREAS, the Joint Management Team has memorialized the agreed upon approach to Change Order No. 1 in a Supplemental Memorandum of Understanding (the “S-MOU”), which identifies the sources of funding to be brought to bear for such an expanded scope package, as well as the agreed-upon priorities for using such funding sources to deliver certain Project elements within that scope package; and

WHEREAS, the S-MOU provides for, among other things, a proposal to expand the boundaries of TIF 2 and an alternative cost recovery mechanism for the University in the event it elects to make additional funding available to the Project by deferring its recovery of a portion of the Pre-Development Expenses that it would otherwise have received at Financial Close; and

WHEREAS, the S-MOU contemplates that, if such additional funding is needed for Change Order No. 1, the Agreement is to be amended to afford such alternative cost recovery mechanism to the University, 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 The following definitions are hereby added to the Agreement as new Sections 1.2.51, 1.2.52 and 1.2.53 respectively:

- “1.2.51. ‘Cost Transfer Amount’ has the meaning set forth in Section 5.11.1.”
- “1.2.52. ‘Special Excess TIF 1 Revenue’ means the amount of incremental TIF 1 revenue, above the current baseline revenue (measured as of December 31, 2016), that is generated by any parcels located within TIF 1 that are part of an Eligible Cost Recovery Development.”
- “1.2.53. ‘Eligible Cost Recovery Development’ is a taxable development project occurring in TIF 1 after the date of Financial Close in which the University and/or PRF serves as a lead project sponsor or in which the University and/or PRF materially and substantially participates as an equity investor or serves as a managing partner. For purposes of this definition, ‘materially and substantially participating as an equity investor’ will be based on the standard for determining ‘insider’ status under federal securities laws (i.e., beneficial ownership of more than 10% of a class of equity securities).”

1.2 A new Section 5.11 of the Agreement is hereby added to read in its entirety as follows:

- “5.11. Additional Funding via Deferral of Pre-Development Expense Recovery. As the Party that has agreed to cash flow a substantial portion of the Pre-Development Expenses, the University may, as a means of providing additional funding for the Project, elect to defer its ability to recover a portion of such expenses, which recovery would otherwise occur via a draw (through the Joint Board) on the TIF Support Facility in the manner contemplated by Section 5.4.2.1 hereof, followed by the subsequent refinancing of such draw with the Developer at Financial Close in the manner contemplated by Section 5.4.3.1 hereof.
- 5.11.1. In the event the University makes such an election, the maximum amount of Pre-Development Expenses eligible to be deferred will be \$1.25 million; provided, however, that the actual amount to be deferred will be limited to that which is actually necessary to provide the additional funding necessary to achieve an increased scope package recommended by consensus of the Joint Management Team and approved by the Joint Board (such actual amount being referred to as the “Cost Transfer Amount”).
- 5.11.2. Any such deferral will be effectuated by a reclassification of the Cost Transfer Amount from “Pre-Development Expenses” to “Project Indirect Costs,” which costs will thereupon be borne by the University until such time as they are recovered by the University as described elsewhere in this Agreement (if from Excess TIF 2 Revenue) or in this Section 5.11 (if from Special Excess TIF 1 Revenue).
- 5.11.3. The University’s willingness to defer its recovery of Pre-Development Expenses and to make the Cost Transfer Amount

available for additional Project funding through the above-described reclassification is conditioned on the University's ability to recover the Cost Transfer Amount from either or both Excess TIF 2 Revenue (as currently provided herein) and/or from Special Excess TIF 1 Revenue (as described in, and subject to the conditions provided in, subsections 5.11.4 and 5.11.5 below).

- 5.11.4. The University may, at any time following the completion of an Eligible Cost Recovery Development, seek reimbursement from the RDC of all or a portion of the Cost Transfer Amount from Special Excess TIF 1 Revenue. (Any such an election would not, however, preclude the University from separately seeking such reimbursement from Excess TIF 2 Revenue, to the extent available, as long as there is no double recovery by the University of the Cost Transfer Amount.)
- 5.11.5. In addition to meeting the test for an Eligible Cost Recovery Development, the University's ability to recover any or all of the Cost Transfer Amount from Special Excess TIF 1 Revenue will be subject to the following conditions:
 - 5.11.5.1 TIF 1 must have generated, in the year immediately preceding the year in which the University seeks reimbursement of the Cost Transfer Amount from Special Excess TIF 1 Revenue, at least \$5 million in annual TIF revenue; and
 - 5.11.5.2 TIF 1 must have excess revenue available after giving effect to the payment of current debt service and other current obligations on commitments existing as of the date of completion of the Eligible Cost Recovery Development creating the tax increment from which the University seeks such reimbursement (including those obligations associated with the availability payments owed to the Developer under the PPA, the Wabash Landing parking garage, and the Combined Sewer Overflow project launched in 2016), it being understood that, as long as TIF 1 has sufficient revenue to cover such debt service and other current obligations (which obligations shall not be deemed to include excess revenue used merely to satisfy applicable coverage ratios thereon), the University's claim on the Cost Transfer Amount shall rank senior to all other claims on Special Excess TIF 1 Revenue and may be paid therefrom (assuming the condition set forth in subsection 5.11.5.1 is also met).
- 5.11.6 When describing the unique nature of the arrangement related to Special Excess TIF 1 Revenue, the Parties will point to the following distinguishing characteristics: (i) the University's status as a non-

taxable instrumentality of the State of Indiana that has the power of preemption over most local law and regulation, and (ii) the fact that the University, in holding a substantial sum of Project Indirect Costs on its books, stands in a position equivalent to that of a creditor of the City and is merely seeking, by operation of the Special Excess TIF 1 Revenue mechanism, to be repaid amounts owed to it under the PDA more rapidly, thus expediting the process whereby the City's will gain a tax base that is unencumbered by the claims associated with these indirect, but nonetheless very real, Project costs."

1.3 A new sentence is hereby added at the end of Section 6.2.2 to read in its entirety as follows:

"Without limiting the generality of the foregoing, the City and the RDC will take the necessary steps, consistent with this Section 6.2.2, to expand the boundaries of TIF 2 to cover the parcels associated with (a) the property in the U.S. 231 Corridor on which PRF plans to develop a service station (as identified by PRF to the City) and (b) the property commonly known as 'Purdue West'—all with the understanding that the costs associated with this expansion will be reimbursed to the City from TIF 2 revenues on a senior claim basis in a manner consistent with the proviso in Section 5.8 above, which memorializes the City's right to recover the costs of establishing TIF 2 in accordance with IC 36-7-14-24."

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 cause their duly authorized representatives to execute this Amendment No. 1 to the Agreement in separate counterparts as of the date first written above.

[signature pages follow]

CITY OF WEST LAFAYETTE, INDIANA

Mayor

City Clerk

THE TRUSTEES OF PURDUE UNIVERSITY

By:
Title:

Attest:

Secretary

WEST LAFAYETTE REDEVELOPMENT
COMMISSION

President

Attest:

Secretary

PURDUE RESEARCH FOUNDATION

By:
Title:

Attest:

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

**SUPPLEMENTAL
MEMORANDUM OF UNDERSTANDING
CONCERNING CHANGE ORDER NO. 1 UNDER
PUBLIC-PRIVATE AGREEMENT FOR
STATE STREET REDEVELOPMENT PROJECT**

THIS SUPPLEMENTAL MEMORANDUM OF UNDERSTANDING (this “S-MOU”) memorializes the consensus of the Joint Management Team, as of March 1, 2016, on an approach to developing, negotiating and entering into a “Change Order No. 1” under the Public-Private Agreement to be entered into with Plenary Roads State Street (“PRSS”) for the State Street Redevelopment Project. Capitalized terms used but not otherwise defined in this S-MOU have the meanings ascribed to them or otherwise referenced in the Amended and Restated Project Development Agreement among the Project sponsors, as Parties (the “PDA”).

BACKGROUND:

- A. The PDA defined the Project Base Scope and the Project Enhanced Scope, and the segments of the Perimeter Parkway were included within the latter.
- B. During the Procurement process, the Joint Management Team took various measures and adopted certain amendments to the RFP that were designed to maximize the number of scope rungs achieved within the Affordability Cap.
- C. The proposal submitted by PRSS and ultimately selected by the Joint Board includes three rungs of Project Enhanced Scope (Segments 6D, 6C and 6E of the Perimeter Parkway) but does not include Segment 6A (Airport Road) or Segment 6B (McCormick Road) of the Perimeter Parkway.
- D. In the course of completing the final steps of the Procurement and preparing for Commercial Close, the Joint Management Team has, in consultation with PRSS, identified a number of measures that, if taken, would enable PRSS to construct more scope within the Affordability Cap, including the additional Perimeter Parkway segments, which has long been an objective of the Parties.
- E. The Joint Management Team expects to negotiate the terms and conditions of an expanded scope package through a change order to the original PRSS proposal, which would take the form of “Change Order No. 1” under the PPA.
- F. The purpose of this S-MOU is to identify the sources of funding to be brought to bear for such an expanded scope package, as well as the agreed-upon priorities for using such funding sources to deliver certain Project elements within that scope package.

In consideration of the foregoing and the authority delegated to them under the PDA, the City and University representatives on the Joint Management Team will cooperate and use their best efforts, and enlist the support of their advisors, to develop and negotiate a Change Order No. 1 under the PPA with PRSS that is consistent with the approach described below:

1. Commercial and Financial Close; Change Order No. 1. Following approval of the Governor of the State of Indiana, and consistent with discussions with PRSS to date, the Joint Management Team will pursue an accelerated timetable for achieving Commercial Close and Financial Close, with the latter expected to occur on or about March 15, 2016. The Joint

Management Team will prepare Change Order No. 1 so that it may be executed and delivered as soon as practicable following Commercial Close.

2. Sources: Core Funding. The core funding budget to be used by the Joint Management Team to negotiate Change Order No. 1 will be comprised of (i) the Interest Savings Amount, (ii) the Affordability Cap Residual Amount, (iii) the Inaugural AP Increase Amount, (iv) the Pre-Development Savings Amount, and (v) the Self-Insurance Amount, for a total of approximately \$4,350,000 (the “Available Core Funding Amount”). These components, as well as certain conditions associated with each of them, are defined below. (Where dollar amounts are indicated, they are expressed in construction dollars expected to be made available through these measures.)

(a) Components.

- (A) the “Interest Savings Amount” is an amount equal to approximately \$450,000 that is expected to result from savings to the Joint Board from the decline in Base Rates that has occurred since December 8, 2015, the date on which PRSS submitted its reference interest rates;
- (B) the “Affordability Cap Residual Amount” is an amount equal to approximately \$650,000 that is expected to result from the use of funding committed by PRSS within the Affordability Cap but thus far unallocated to any particular Project use;
- (C) the “Inaugural AP Increase Amount” is an amount equal to approximately \$2.0 million that is expected to result from an increase in the Inaugural Availability Payment by \$5.0 million through a corresponding draw on the TIF Support Facility when such payment is due (thereby yielding, with the Interest Savings Amount and the Affordability Cap Residual Amount, approximately \$3.1 million in additional construction dollars);
- (D) the “Pre-Development Savings Amount” is an amount equal to approximately \$750,000, resulting from a reduction in Pre-Development Expenses by \$400,000 from savings on budgeted Project advisory fees and a further reduction of \$350,000 as a result of the University’s willingness to cover the cost of the Stipend payable to the second-ranked Offeror who submitted a compliant proposal under the RFP; and
- (E) the “Self-Insurance Amount” is an amount equal to approximately \$500,000 that will result from the City’s making separate arrangements for casualty insurance on the State Street Property during the Project Term, as opposed to including such costs within the Availability Payment structure.

(b) Conditions and Next Steps. Certain components of the Available Core Funding Amount are subject to additional caveats, conditions and next steps, as follows:

- (A) The Joint Management Team estimates that the currently estimated Interest Savings Amount could be exceeded by as much as \$1.10 million based on current interest rates, but the Joint Management Team will elect not to commit such excess so that it may be held by the Joint Board as a reserve for contingencies (such as relief events), for making future Availability Payments, or for future scope adjustments recommended by the Joint Management Team to the Joint Board after Financial Close.

- (B) The University’s and PRF’s willingness to make the Inaugural AP Increase Amount available is conditioned on the following (it being understood that sub-clause 2(b)(B)(i) below is not intended to be a condition precedent to the Joint Board’s entering into Change Order No. 1 under the PPA or to the Joint Board’s performance of its obligations thereunder):
- (i) the City’s and the RDC’s taking all necessary steps, consistent with Section 6.2.2 of the PDA, to expand the boundaries of TIF 2 to cover the parcels associated with (a) the property in the U.S. 231 Corridor on which PRF plans to develop a service station (as previously identified to the City) and (b) the property commonly known as “Purdue West”—all with the understanding that the costs associated with this expansion will be reimbursed to the City from TIF 2 revenues on a senior claim basis in a manner consistent with the proviso in Section 5.8 of the PDA, which memorializes the City’s right to recover the costs of establishing TIF 2 in accordance with IC 36-7-14-24; and
 - (ii) notwithstanding a previous proposal discussed by the Joint Management Team whereby the University would subordinate its claim on Excess TIF 2 Revenue to the extent necessary to facilitate a future construction of Segment 6B (McCormick Road), there will be no such subordination given that the Inaugural AP Increase Amount will now be used in part to accomplish the immediate construction of Segment 6B under Change Order No. 1.
- (C) The anticipated draw on the TIF Support Facility under Section 5.4.2.1 of the PDA to cover Pre-Development Expenses will be reduced from \$9,400,000 to \$8,650,000 (before giving effect to any further reduction for the Cost Transfer Amount as described in Section 4 below) in order to reallocate the Pre-Development Savings Amount to construction dollars.
- (D) The Self-Insurance Amount will be subject to the negotiation and execution by the University, the Joint Board and the City of an Insurance Agreement that will set forth the terms and conditions of the City’s self-insurance of the State Street Property for casualty risk during the Project Term.

3. Uses. The Joint Management Team will use its best efforts to negotiate with PRSS an expanded scope package for Change Order No. 1 within the Available Core Funding Amount. In applying this amount to identified components of the scope package, the Joint Management Team will give effect to the scope topics listed in Exhibit A attached hereto and will prioritize the following elements within that list that involve making a counterproposal to PRSS:

Priority	Element Topic
1	No. 4, Airport Road – No bike/ped on west side; re-use existing on east side
2	No. 8, Cycle track enhanced pavement – All pavers
3	No. 3, McCormick Road - 1 lane each direction with center turn lane. Includes bike/ped as per PTG

The Joint Management Team intends and expects to be able to negotiate with PRSS the scope package described in Exhibit A for an amount equal to \$5.4 million. Since such amount exceeds the Available Core Funding Amount of \$4.35 million, the Joint Management Team will, without committing any of the reserve described in Section 2(b)(A) above, apply the conditional Cost Transfer Amount described in Section 4 below to cover this gap.

4. Use of Conditional Cost Transfer Amount. The amount of additional funding required to obtain the Change Order No. 1 scope package described in Exhibit A will be covered by a further reduction of the Pre-Development Expenses that are to be refinanced with PRSS at Financial Close, with such reduction to be in an amount up to \$1,250,000; provided, that this reduction will be limited to the amount actually necessary to achieve the negotiated scope package (such actual amount being referred to as the “Cost Transfer Amount”); and provided, further, that the availability of the Cost Transfer Amount is subject to the conditions described in paragraphs (a), (b), (c) and (d) of this Section 4.

By way of illustration, if the Change Order No. 1 scope package has a cost of \$5.4 million, the Cost Transfer Amount will be set at \$1.05 million (or the \$5.4 million minus the Available Core Funding Amount of \$4.35 million). The reduction in refinanced Pre-Development Expenses will be effectuated by a reclassification of the Cost Transfer Amount from “Pre-Development Expenses” to “Project Indirect Costs,” which costs will thereupon be borne by the University until such time as they are recovered by the University as described below. Under this scenario, the actual amount of Pre-Development Expenses to be refinanced with the Developer and wrapped into the availability payment structure at Financial Close would be \$7.6 million (i.e., the adjusted \$8.65 million identified in Section 2(b)(C) above, minus \$1.05 million).

- (a) The University’s willingness to make the Cost Transfer Amount available through the above-described reclassification is subject to the RDC’s agreement to allow the University to recover the Cost Transfer Amount both from Excess TIF 2 Revenue (as currently provided in the PDA) and from “Special Excess TIF 1 Revenue” (as described in, and subject to the conditions provided in, paragraphs (b) and (c) below).
- (b) For purposes of this S-MOU, the following terms have the following respective meanings:
 - (A) “Special Excess TIF 1 Revenue” means the amount of incremental TIF 1 revenue, above the current baseline revenue (measured as of December 31, 2016), that is generated by any parcels located within TIF 1 that are part of an “Eligible Cost Recovery Development.”
 - (B) “Eligible Cost Recovery Development” is a taxable development project occurring in TIF 1 after the date of Financial Close in which the University and/or PRF serves as a lead project sponsor or in which the University and/or PRF materially and substantially participates as an equity investor or serves as a managing partner. For purposes of this definition, ‘materially and substantially participating as an equity investor’ will be based on the standard for determining ‘insider’ status under federal securities laws (i.e., beneficial ownership of more than 10% of a class of equity securities).”

- (c) In addition to meeting the test for an Eligible Cost Recovery Development, the University's ability to recover any or all of the Cost Transfer Amount from Special Excess TIF 1 Revenue will be subject to the following conditions:
- (A) TIF 1 must have generated, in the year immediately preceding the year in which the University seeks to recover a portion of the Cost Transfer Amount from Special Excess TIF 1 Revenue, at least \$5 million in annual TIF revenue; and
 - (B) TIF 1 must have excess revenue available after giving effect to the payment of current debt service and other current obligations on commitments existing as of the date of completion of the Eligible Cost Recovery Development creating the tax increment from which the University seeks such reimbursement (including those obligations associated with the availability payments owed to the Developer under the PPA, the Wabash Landing parking garage and the Combined Sewer Overflow project launched in 2016), it being understood that as long as TIF 1 has sufficient revenue to cover such debt service and other current obligations (which obligations shall not be deemed to include excess revenue used merely to satisfy applicable coverage ratios thereon), the University's claim on the Cost Transfer Amount shall rank senior to all other claims on Special Excess TIF 1 Revenue and may be paid therefrom (assuming the condition in Section 4(c)(A) is also met).
- (d) Since it appears the Cost Transfer Amount will be needed for Change Order No. 1, the City will immediately arrange a meeting between representatives of the City, PRF and the RDC for the purpose of reaching agreement on a suitable amendment to the PDA that will give effect to the University's ability to recover the Cost Transfer Amount from Excess TIF 2 Revenue and (subject to the above conditions) Special Excess TIF 1 Revenue. When describing the unique nature of the arrangement related to Special Excess TIF 1 Revenue, the Parties will point to the following distinguishing characteristics: (i) the University's status as a non-taxable instrumentality of the State of Indiana that has the power of preemption over most local law and regulation, and (ii) the fact that the University, in holding a substantial sum of Project Indirect Costs on its books, stands in a position equivalent to that of a creditor of the City and is merely seeking, by operation of the Special Excess TIF 1 Revenue mechanism, to be repaid amounts owed to it under the PDA more rapidly, thus expediting the process whereby the City will gain a tax base that is unencumbered by the claims associated with these indirect, but nonetheless very real, project costs.

5. Joint Board Approval. The Joint Management Team will work with PRSS to finalize Change Order No. 1 concurrently with preparations for Commercial and Financial Close. As promptly as practicable following Commercial Close, the Joint Management Team will bring Change Order No. 1 to the Joint Board for its approval.

ACKNOWLEDGED by the Joint Management Team members as of March 1, 2016:

**CITY OF WEST LAFAYETTE JOINT
MANGEMENT TEAM MEMBERS**

**PURDUE UNIVERSITY JOINT
MANAGEMENT TEAM MEMBERS**
