

WHEN RECORDED RETURN TO:

Amy S. Beattie
6701 Westown Parkway, Suite 100
West Des Moines, Iowa 50266

Preparer Information: Amy S. Beattie, 6701 Westown Parkway, Suite 100, West Des Moines, Iowa 50266 (515) 274-1450

**Tax Increment Development Agreement
SPAL – USA, INC.**

Whereas, the City of Ankeny, Iowa (hereinafter “City”), has been presented with a proposal for an Urban Renewal Project to be undertaken by SPAL – USA, Inc. (hereinafter “Company”); and

Whereas, the Urban Renewal Project to be undertaken by the Company is on property locally known as approximately 25 acres located at the northeast corner of SE Convenience Boulevard and SE 77th Street in the Crosswinds Business Park, Ankeny, Iowa and legally described on the attached **Exhibit “A”** (hereinafter “Project Area”).

Whereas, the Project Area is located within the 1989 Ankeny Economic Development Area Urban Renewal Project established by Resolution #23-89 passed on March 20, 1989 (hereinafter “Urban Renewal Area”) and the Urban Renewal Plan established by Ordinance #1039 passed on May 15, 1989 (hereinafter “Ordinance”), and included in the Urban Renewal Plan approved by Resolution No. 62-89, adopted April 17, 1989, and the following amendments: Resolution No. 32-94, adopted February 7, 1994, the City approved and adopted Amendment No. 1 to the Plan; Resolution No. 2003-195, adopted May 19, 2003, the City approved and adopted Amendment No. 2 to the Plan; Resolution No. 2003-356, adopted November 17, 2003, the City approved and adopted Amendment No. 3 to the Plan; Resolution No. 2005-408, adopted September 6, 2005, the City approved and adopted Amendment No. 4 to the Plan; Resolution No. 2012-376, adopted September 17, 2012, the City approved and adopted Amendment No. 5 to the Plan; Resolution No. 2015-183, adopted April 6, 2015, the City approved and adopted Amendment No. 6 to the Plan; Resolution No. 2017-132, adopted March 6, 2017, the City approved and adopted Amendment No. 7 to the Plan; Resolution No. 2018-148, adopted March 19, 2018, the City approved and adopted Amendment No. 8 to the Plan; Resolution No. 2018-257, adopted May 21, 2018, the City approved and adopted Amendment No. 9 to the Plan; Resolution No. 2019-088, adopted March 4, 2019, the City approved and adopted Amendment No. 10 to the Plan; Resolution No. 2020-460, adopted November 2, 2020, the City approved and adopted Amendment No. 11 to

the Plan; and Resolution No. 2021-374, adopted October 4, 2021, the City approved and adopted Amendment No. 12 to the Plan; and Resolution No. 2023-165, adopted April 3, 2023, the City approved and adopted Amendment No. 13 to the Plan; and

Whereas, the City has adopted an Ordinance under which tax incremental revenues are divided with a portion going into the Urban Renewal Tax Increment Fund of the City, pursuant to *Iowa Code* §403.12 and §403.19; and

Whereas, the Company is proposing an Urban Renewal Project that will construct an approximately 215,000 square foot headquarters facility for U.S. operations consisting of office, manufacturing, warehousing, and distribution uses (the “Project”) to be located within the Project Area, with the Company anticipating adding thirty-nine (39) new jobs within the three years from the date of this agreement; and

Whereas, the Project is eligible for benefits in accordance with the Targeted Industry Incentive Policy adopted by the City by Resolution No. 2022-534 which consists of incentives providing certain property tax abatement and tax rebates (hereinafter “City Contribution”); and

Whereas, the City has determined that the Project is consistent with the economic development objectives of the City and that development of the Project Area is in the best interest of the City. The City further finds that the use of City funds is in accord with the provisions of the applicable laws under which the Project will be undertaken, including, but not limited to *Iowa Code* Chapters 15A and 403.

Now, Therefore, the City and Company, in consideration of the promises and mutual obligations set forth in this Development Agreement (hereinafter “Agreement”), agree as follows:

Article I

1. The Company shall construct the Project at its cost and in conformance with all applicable rules, regulations, ordinances and laws.
2. The Company shall commence the Project, defined as footings in the ground, within twelve (12) months of approval of this Agreement by the City.
3. The Project shall consist of construction of an approximately 215,000 square foot manufacturing, warehousing, distribution and office facility and associated site improvements at the Project Area.
4. The Company acknowledges the City’s payment of incentives associated with the Project is wholly contingent on the completion of Project and the issuance of a Certificate of Occupancy by the City for the Project.

Article II

1. Each annual rebate payment on the tax increment financing eligible improvements is contingent upon proof that real estate taxes owed on the taxable value of the Project have been paid and satisfaction of all other contingencies set out in this Agreement. The City will rebate one hundred percent (100%) of the taxes paid, to the Company, at the Tax Increment Financing rate on the tax revenue produced by the non-exempted portion of the incremental taxable property valuation added as a result of the Project (such revenue hereinafter referred to as the "Tax Increment") for a period of five (5) years and as restricted below. The first payment will be made in the fiscal year in which the taxes based on the value of the completed Project are first paid. Notwithstanding anything contained herein, the total amount of the taxes rebated to the Company shall not exceed the sum of One Million Two-Hundred Thousand Dollars (\$1,200,000.00).

2. Each annual rebate payment shall be paid to the Company on or about June 30 of the fiscal year such incremental taxes are paid, upon finding that the conditions precedent have been satisfied for said year.

3. The City's obligation to rebate taxes shall be restricted and limited by the City's ability to capture the Tax Increment funds from the qualifying Project. This will include but may not be limited to the following:

- a. The Tax Increment Financing rate established annually;
- b. The amount of Tax Increment collected from the Project on an annual basis after any abatement and/or exemption of property taxes and valuation by the Polk County Assessor;
- c. Amendments to the laws of the State of Iowa that limit or revise the amount of Tax Increment funds available to the City from the Project; and
- d. Limitations established by the City Council in the adopted Financial Policy; provided, however, that any such limitations shall be apportioned equally to all businesses similarly situated and shall not be applied solely to the Company or Project.

4. Notwithstanding the foregoing, the City pledges and agrees to make all reasonable efforts to obtain from the County Auditor the entire amount of Tax Increment revenues derived from the Project; however, the City makes no representation, warranty or guarantee as to the tax benefits that will accrue to the Company as a result of this financial assistance package.

5. For purposes of this Article, the incremental taxable property value will be determined at the sole discretion of the Polk County Assessor.

6. Each tax rebate is subject to annual appropriation by the City Council. The right of non-appropriation reserved to the City is intended by the parties, and shall be construed at all times, so as to ensure that the City's obligation to make future rebates shall not constitute a legal indebtedness of the City within the meaning of any applicable constitutional or statutory debt

limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Agreement are determined by a court of competent jurisdiction to create, or result in the creation of, such a legal indebtedness of the City, the enforcement of the said provision shall be suspended, and the Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no event of default by the City shall be deemed to have occurred as a result thereof. If any provision of this Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other provisions of this Agreement that can be given effect without the suspended provision. To this end the provisions of this Agreement are severable.

ARTICLE III

1. The Company agrees to create thirty-nine (39) full-time positions, defined as one person employed 2,080 hours per year, at the wages listed in the table below, within three (3) years of issuance of approval of this Agreement (hereinafter "Project Completion Period") and maintain these positions for a period of two (2) additional years (hereinafter "Maintenance Period") following the Project Completion Period, for a total of a five (5) years, (hereinafter "Project Period").

Laborshed %	FY23 Wage Rate	# of Positions	Created/Retained	Rebate Value
<100%	<\$27.76	2	C	\$2,000
100% - 120%	\$27.76 - \$33.31	22	C	\$3,500
>120%	>\$33.31	15	C	\$5,000

2. The Company shall submit payroll records within thirty (30) days of approval of this Agreement and annually for the period ending December 31 for each calendar year of the Project Period or until the City has notified the Company in writing that all job creation requirements have been met.

3. If the Company does not meet the job obligations listed above by the Project Completion Period, the City shall retain a portion of the Company's annual tax rebate. Any amount retained will be calculated based on the number of jobs that were obligated and not created by the Project Completion Period using the rebate value listed above.

For example, if the Company is short by 2 jobs paying less than 100% of the laborshed wage the amount to be withheld is \$2,000 per job multiplied by 2, for a total amount withheld of \$4,000. If, for example, the Company creates only 12 positions at >120% of the laborshed wage, 25 positions at 100%-120% of the laborshed wage and two positions at <100% of the laborshed wage, the amount the City will withhold will be \$4,500, calculated by reducing the rebate \$15,000 (three jobs short at \$5,000 per job), plus a credit of \$10,500 (three jobs at \$3,500 per job) for three additional jobs created at 100-120% of the laborshed wage rate. The City will reduce the Company's employment obligations to reflect the number of jobs created at the end of the Project Completion Period and this number must be maintained through the Maintenance Period.

4. If the Company does not meet the job obligations through the Maintenance Period, the City shall retain a portion of the tax rebate for the number of jobs it failed to maintain. The amount retained will be calculated as described above.

Article IV

1. All notices given pursuant to this Agreement shall be in writing and shall be given by personal service, by United States certified mail or other established express delivery service (such as Federal Express) that guarantees overnight delivery, postage or delivery charge prepaid, addressed to the appropriate party at the address set forth below:

City: City of Ankeny
City Manager
410 W First Street
Ankeny, IA 50023

Company: SPAL – USA, Inc.
Attn: Justin Sample
1731 SE Oralabor Road
Ankeny, IA 50021

Notices shall be effective upon receipt or refusal.

2. Each party shall have all remedies provided by law or equity to the same extent as if fully set forth herein word for word. No remedy available to any party shall exclude any other remedy available to such party under this Agreement or provided by law or equity. All remedies shall be cumulative.

3. The provisions of this Agreement are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

4. This Agreement is not intended to create, nor shall it in any way be interpreted or construed to create, any third party beneficiary rights in any person not a party hereto.

5. The terms, covenants, conditions and agreements contained herein shall constitute covenants running with the land and shall be binding upon, and inure to the benefit of, the successors and assigns of the Company.

6. This Agreement and the Exhibits which are or may in the future become a part of this Agreement supersede any prior agreements between the parties concerning the Project, and no oral statements, representations or prior written matter relating to the subject matter hereof, but not contained in this Agreement, shall have any force or effect. This Agreement shall not be amended or added to in any way except by written instruments executed by all parties or their respective successors in interest.

7. Each person executing this Agreement represents and warrants that he or she has authority to sign this Agreement on behalf of the limited liability company for which he or she is signing, and that his or her signature binds said entity to the terms and provisions of this Agreement.

8 This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument. Signature and acknowledgment pages may be detached from individual counterparts and attached to a single or multiple original(s) in order to form a single or multiple original(s) of this Agreement.

9. This Agreement shall be interpreted and construed in accordance with the laws of the State of Iowa.

10. Notwithstanding any other provisions of this Agreement, the Company may (1) pledge any and/or all of its assets as security for any financing of the Project; and (2) assign its rights under this Agreement to a third party, provided such assignment shall not release the Company of its obligations hereunder, unless approved by the City. Upon receipt of notice of assignment and request from the Company, City agrees to make all payments directly to any assignee.

IN WITNESS WHEREOF, we have hereunto set our hands and seals.

CITY OF ANKENY, IOWA

By: _____
Mark E. Holm, Mayor

I, Michelle Yuska, City Clerk of the City of Ankeny, Iowa, do hereby certify that the within and foregoing Development Agreement was duly approved and accepted by the City Council of said City of Ankeny by Resolution and Roll Call No. _____, passed on the ____ day of May 2023 and this certificate is made pursuant to authority contained in said Resolution.

Signed this ____ day of May, 2023.

City Clerk of the City of Ankeny, Iowa

STATE OF IOWA, COUNTY OF POLK, ss:

On the ____ day of May, 2023, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Mark Holm and Michell Yuska, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk of the City of Ankeny, Iowa, a municipal corporation; that the seal affixed to the above and foregoing instrument is the corporate seal of said municipal corporation, and the said Mark Holm and Michelle Yuska acknowledged the execution of said instrument to be their voluntary act and deed and the voluntary act and deed of said municipal corporation, by it and by them voluntarily executed.

[Stamp or Seal]

Notary Public in and for the State of Iowa

SPAL – USA, Inc.
an Iowa Corporation

By: 
Justin Sample, President SPAL – USA, Inc.

STATE OF IOWA, COUNTY OF POLK, ss:

On this 24 day of April, 2023, before me, a Notary Public in and for the said State, personally appeared Justin Sample, to me personally known, who, being by me duly sworn, did say that that person is President of said company; that said instrument was signed on behalf of the said company by authority of its Officers and the said Justin Sample acknowledged the execution of said instrument to be the voluntary act and deed of said company by it voluntarily executed.





Notary Public in and for said State of Iowa

Exhibit "A"

A PART OF OUTLOT "X" AND A PART OF STREET LOT "B", ALL IN CROSSWINDS BUSINESS PARK PLAT 1, AN OFFICIAL PLAT, CITY OF ANKENY, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID OUTLOT "X"; THENCE SOUTH 89°52'08" WEST ALONG THE SOUTH LINE OF SAID OUTLOT "X", 850.42 FEET; THENCE NORTHWESTERLY CONTINUING ALONG SAID SOUTH LINE AND ALONG A CURVE CONCAVE NORTHEASTERLY WHOSE RADIUS IS 55.00 FEET, WHOSE ARC LENGTH IS 80.75 FEET AND WHOSE CHORD BEARS NORTH 48°04'22" WEST, 73.69 FEET TO THE WEST LINE OF SAID OUTLOT "X"; THENCE NORTH 06°00'52" WEST ALONG SAID WEST LINE, 25.33 FEET; THENCE NORTH 00°18'14" WEST CONTINUING ALONG SAID WEST LINE, 222.38 FEET; THENCE NORTH 0°15'50" WEST CONTINUING ALONG SAID WEST LINE, 891.33 FEET; THENCE NORTH 89°43'47" EAST, 836.83 FEET; THENCE SOUTH 07°52'54" EAST, 1199.12 FEET TO THE SOUTH LINE OF SAID STREET LOT "B"; THENCE SOUTH 88°29'03" WEST ALONG SAID SOUTH LINE, 88.10 FEET TO THE POINT OF BEGINNING AND CONTAINING 25.00 ACRES (1,089,086 S.F.).