

**RESOLUTION 22-06**

**TO CONFIRM RESOLUTION 22-05 DESIGNATING AN ECONOMIC REVITALIZATION AREA, APPROVING THE STATEMENT OF BENEFITS, AND AUTHORIZING AN ABATEMENT PERIOD FOR REAL PROPERTY IMPROVEMENTS AND PERSONAL PROPERTY**

**Re: Properties at 1300 S. Patterson Drive  
(Catalent Indiana, LLC, Petitioner)**

WHEREAS, Indiana Code § 6-1.1-12.1-1 *et seq.* specifies that the Common Council may designate an “Economic Revitalization Area” (“ERA”); and

WHEREAS, the Common Council of the City of Bloomington updated and adopted Tax Abatement General Standards in Resolution 21-06 that established the standards to be used in finding an area to be an ERA; and

WHEREAS, Catalent Indiana, LLC, (“Petitioner”) filed an application for designation of property at and around 1300 South Patterson Drive, Bloomington, Indiana, comprised of the following Monroe County Parcel Numbers and Legal Descriptions as an ERA:

Parcel Numbers: 53-08-05-400-032.000-009  
53-08-05-400-033.000-009  
53-08-08-100-009.000-009  
53-08-08-100-043.000-009  
53-08-08-100-105.000-009  
53-08-08-100-131.000-009  
53-08-05-400-005.001-009  
53-08-08-200-001.000-009  
53-08-05-300-002.000-009

Legal Descriptions: 015-43770-00 SEM PT LOTS 42,54-57 & VAC ALLEY; L55  
015-43780-00 Seminary Part Lot 57 (57A)  
015-26440-02 PT NE NE 8-8-1W .576A; PLAT 143  
015-05330-04 IMI BATCH PLANT LOT 1C  
015-05330-02 IMI BATCH PLANT LOT 1A  
015-43600-00 PT N1/2 NE 8-8-1W 9.11A; PLAT 1  
015-18350-01 SEM Pt Lot 54 & Pt Lot 42; 0.98 A  
015-17120-01 PT N1/2 8-8-1W 79.877+7.46A Plats 217&523  
015-26610-02 SEM PT 171; .10A; L171;

WHEREAS, pursuant to Indiana Code § 6.1-1.1-12.1-2.5(a), City staff have prepared a map depicting the parcels proposed as an ERA, which is attached to this Resolution as Exhibit A; and

WHEREAS, Indiana Code § 6-1.1-12.1-1 *et seq.* provides for the designation of ERA within which property taxes may be abated on improvements to real estate and personal property; and

WHEREAS, Petitioner has applied for a tax abatement and submitted its Statement of Benefits form detailing the real and personal property improvements; and

WHEREAS, according to its application, Petitioner has proposed investing \$350 million in real and personal property investments to expand its Bloomington plant (“Project”); and

WHEREAS, according to Petitioner’s Statement of Benefits, this Project would create 1,000 new full-time, permanent jobs with a mean wage of \$32 per hour; and

WHEREAS, as required by Indiana Code, Bloomington Municipal Code, and a Memorandum of Understanding to be executed between the Petitioner and the City pursuant to the City of Bloomington Tax Abatement General Standards, the Petitioner shall agree to provide information in a timely fashion each year to the County Auditor and the Common Council showing the extent to which the Petitioner has complied with its Statement of Benefits, complied with the City of Bloomington's Living Wage Ordinance (B.M.C. 2.28), and complied with commitments specified in the Memorandum of Understanding; and

WHEREAS, the Project is located in the Thomson Allocation Area within the Consolidated Tax Increment Financing ("Consolidated TIF") district, and Indiana Code § 6-1.1-12.1-2(k) provides that, when a property is designated as an ERA for tax abatement purposes and is also located in a TIF allocation area, the Common Council must approve the Statement of Benefits by resolution; and

WHEREAS, the Common Council of the City of Bloomington—in Ordinance 97-06—gave the Economic Development Commission the responsibility for making recommendations to the Council regarding requests for tax abatement; and

WHEREAS, on January 31, 2022, the Economic Development Commission determined that the application met the statutory qualifications in Indiana Code § 6.1.1-12.1-1 *et seq.* and recommended designation of the Property as an ERA and approval of Petitioner's Statement of Benefits and abatement application in Commission Resolutions 22-01 and 22-02; and

WHEREAS, Indiana Code §§ 6-1.1-12.1-17, -18 authorizes the Common Council to set an abatement schedule for real and personal property tax abatements, and the Council has reviewed Petitioner's application and Statement of Benefits, both of which are attached and incorporated into this Resolution; and

WHEREAS, the Common Council has investigated the area, reviewed the Application and Statement of Benefits, and found the following:

- a. the estimate of the value of the Project is reasonable;
- b. the estimate of the number of individuals who will be employed can be reasonably expected to result from the Project as proposed;
- c. the estimate of the annual salaries of these individuals who will be employed can be reasonably expected to result from the Project as proposed;
- d. any other benefits about which information was requested are benefits that can be reasonably expected to result from the Project;
- e. the totality of benefits is sufficient to justify the deduction; and

WHEREAS, the Common Council has further found that the Project will not negatively impact the ability of the Consolidated TIF (Thomson Allocation Area) to meet its debt obligations; and

WHEREAS, the Common Council adopted Resolution 22-05 on February 16, 2022, which designated the Property as an Economic Revitalization Area, approved the Statement of Benefits, and authorized a ten-year tax abatement period for the real property improvements and a twenty-year tax abatement period for the personal property improvements; and

WHEREAS, the City Clerk published notice of the passage of Resolution 22-05, which requested that persons having objections or remonstrances to the designation, the Statement of Benefits, and findings of fact appear before the Common Council at its meeting on March 2, 2022; and

WHEREAS, the Common Council has reviewed and heard all such objections and remonstrance to the ERA designation.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Pursuant to Indiana Code § 6-1.1-12.1-1, *et seq.*, the Common Council affirms its determinations made in Resolution 22-05 that the Property located at and around 1300 South Patterson Drive, composed of nine (9) parcels identified above, which is located within the Thomson Allocation Area of the Consolidated TIF, is an “Economic Revitalization Area” as set forth in Indiana Code § 6-1.1-12.1-1, *et seq.*

SECTION 2. This designation shall expire no later than December 31, 2052, unless extended by action of the Common Council and upon recommendation of the Bloomington Economic Development Commission.

SECTION 3. The Common Council affirms its approval of the Petitioner’s Statement of Benefits for its real and personal property improvements, and the Common Council reaffirms that the proposed capital investment will create new permanent, living-wage jobs.

SECTION 4. The Common Council finds and determines the Petitioner, or its successors as allowed by the Memorandum of Understanding, shall be entitled to an abatement of real property taxes for the Project as provided in Indiana Code § 6-1.1-12.1-1, *et seq.*, for a period of ten (10) years with the following deduction schedule:

Year 1	50%
Year 2	50%
Year 3	50%
Year 4	50%
Year 5	50%
Year 6	50%
Year 7	50%
Year 8	50%
Year 9	50%
Year 10	50%

SECTION 5. The Common Council finds and determines the Petitioner, or its successors as allowed by the Memorandum of Understanding, shall be entitled to an abatement of personal property taxes for the Project as provided in Indiana Code § 6-1.1-12.1-1, *et seq.*, for a period of twenty (20) years with the following deduction schedule:

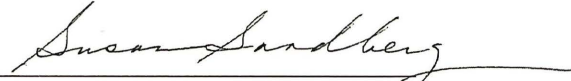
Year 1	90%	Year 11	90%
Year 2	90%	Year 12	90%
Year 3	90%	Year 13	90%
Year 4	90%	Year 14	90%
Year 5	90%	Year 15	90%
Year 6	90%	Year 16	90%
Year 7	90%	Year 17	90%
Year 8	90%	Year 18	90%
Year 9	90%	Year 19	90%
Year 10	90%	Year 20	90%

SECTION 6. In granting this designation and deductions the Common Council incorporates Indiana Code § 6-1.1-12.1-12 and also expressly exercises the power set forth in Indiana Code § 6-1.1-12.1-2(i)(6) to impose additional, reasonable conditions on the rehabilitation or redevelopment beyond those listed in the Statement of Benefits, and authorizes the City of Bloomington to negotiate a Memorandum of Understanding with the Petitioner specifying substantial compliance terms and consequences and remedies for noncompliance. In particular, failure of the property owner to make reasonable efforts to comply with the following conditions is an additional reason for the Council to rescind this designation and deduction:


- a. the land and improvements shall be developed and used in a manner that complies with local code;
- b. the Project shall be completed before or within twelve months of the completion date as listed on the application;
- c. Petitioner will comply with all compliance reporting requirements in the manner described by Indiana Code, Bloomington Municipal Code, and by the Memorandum of Understanding.

SECTION 7. The provisions of Indiana Code § 6-1.1-12.1-12 are hereby incorporated into this resolution, so that if the Petitioner ceases operations at the facility for which the deduction was granted and the Common Council finds that the Petitioner obtained the deduction by intentionally providing false information concerning its plans to continue operations at the facility, the Petitioner shall pay the amount determined under Indiana Code § 6-1.1-12.1-12(e) to the county treasurer.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this 2 day of March, 2022.

  
SUSAN SANDBERG, President  
Bloomington Common Council

ATTEST:

  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 3 day of March, 2022.

  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this 7<sup>th</sup> day of March, 2022.

  
JOHN HAMILTON, Mayor  
City of Bloomington

## SYNOPSIS

This resolution confirms Resolution 22-05, which designated nine parcels located at and around 1300 S. Patterson Drive as an Economic Revitalization Area (“ERA”) for Catalent Indiana LLC (“Petitioner”). This designation was recommended by the Economic Development Commission on January 31, 2022, and will enable the proposed \$350 million project including the real and personal property improvements to be eligible for tax abatement. The resolution affirms the Council’s approval of the Petitioner’s Statement of Benefits, authorizes a ten-year period of abatement for real property improvements, authorizes a twenty-year period of abatement for personal property, and sets the deduction schedules for each.

Distributed to: Clerk, Controller, Council Attorney, Economic and Sustainable Development Department, Legal, and Mayor.

**MEMORANDUM OF AGREEMENT  
REGARDING CITY OF BLOOMINGTON TAX ABATEMENT**

THIS MEMORANDUM OF AGREEMENT (this "Agreement"), is made and entered this 19 day of April, 2022, by and between the **CITY OF BLOOMINGTON, INDIANA** (the "City"), and **CATALENT INDIANA, LLC** ("Catalent"), and serves as a confirmation of Catalent's commitment to comply with the project description, job creation and/or retention (and associated wages, rates, and salaries) figures contained in its Application for Designation as an Economic Revitalization Area ("Application"), Statement of Benefits, the Economic Revitalization Area Resolution Numbers 22-05 and 22-06, and attachments considered by the Bloomington Common Council on February 9, 2022; February 16, 2022; and March 2, 2022, and in this Agreement (collectively, the "Commitments"). The Application submitted by Catalent, which includes the Statement of Benefits for Personal Property ("Statement of Benefits") is attached to this document as Exhibit A and is incorporated by reference in its entirety.

**RECITALS**

- A. WHEREAS, Catalent at its location at 1300 South Patterson Drive and/or other parcels as shown in Exhibit A ("Site") intends to invest at least \$340,000,000 in personal property, to install equipment in and around the Site by December of 2027 and the Petitioner wishes to invest at least \$10,000,000 in real property improvements to the Site, and expects to employ one thousand (1,000) new full-time workers by December 31, 2026, on the Site with a new annual aggregate payroll for those employees, excluding benefits and overtime, of an additional \$66,560,000 (the "Project"); and
- B. WHEREAS, the City wishes to have Catalent undertake the Project because it will create new jobs, enhance the tax base of the City, and facilitate the economic development of the Thomson Tax Increment Finance (TIF) district and Bloomington; and
- C. WHEREAS, Catalent, has applied for tax abatement for real and personal property for the Project; and
- D. WHEREAS, Catalent is partnering with the City on its transportation demand management (TDM) program, Go Bloomington; and
- E. WHEREAS, the City of Bloomington Economic Development Commission (the "EDC") reviewed the Application filed by Catalent and has adopted its Resolutions 22-01 and 22-02 recommending that the Common Council extend and expand the Economic Revitalization Area ("ERA") designation around the site through December 31, 2052, approve both Statement of Benefits forms, and authorize a ten-year period of abatement for real property improvements and a twenty-year period of abatement for personal property; and

- F. WHEREAS, the Common Council of Bloomington, Indiana, has adopted the Resolutions 22-05 extending and expanding the designation of ERA, approved Catalent's Statement of Benefits form, and authorized a ten-year abatement schedule for the real property improvements and a twenty-year abatement schedule for the personal property investments; and
- G. WHEREAS, the Common Council confirmed its ERA designation, approval of the Statement of Benefits, and abatement schedules in Resolution 22-06 after holding a public hearing as required by Indiana Code § 6-1.1-12.1-1 *et seq.*
- H. WHEREAS, pursuant to Bloomington Municipal Code 2.28, Catalent commits to paying employees employed by the Project at least the City of Bloomington Living Wage in effect at the time of wage payment throughout the term of the approved abatement; and
- I. WHEREAS, as part of this Agreement, Catalent shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations regarding non-discrimination in all regards, including but not limited to employment practices; and
- J. WHEREAS, the City wishes to enter into a Memorandum of Agreement with Catalent so that both parties will have a clear understanding of what will constitute substantial compliance with stated goals and benefits as outlined in the Application, and what will be the consequences and remedies for either party's failure to substantially comply with their commitments;

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:

## ARTICLE 1 RECITALS AS PART OF AGREEMENT

1.1. **Incorporation of Recitals.** The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Article I.

## ARTICLE 2 EFFECTIVE DATE AND TERM OF AGREEMENT

2.1. **Effective Date.** The rights and obligations of Catalent and the City hereunder shall be effective upon the date this Agreement has been executed by all parties.

2.2. **Term of Agreement.** The term of this Agreement shall commence on the date it has been executed by all parties and shall continue through one year past the final year of the property tax abatement or December 31, 2053, whichever is earlier.

**ARTICLE 3**  
**ANNUAL COMPLIANCE REPORTING**

**3.1. Annual Compliance Reporting Requirements.**

- (a) **Statutory Compliance with Reporting Requirements.** During the Term of Agreement, Catalent will comply with all statutory reporting requirements relating to its property tax abatement, including those in Indiana Code § 6-1.1-12.1-5.1(b).
- (b) **Additional Reporting Requirements.** In addition to the statutory reporting requirements imposed on Catalent by law, during the Term of Agreement, the City may annually request information from Catalent concerning the nature of the Project, the approved capital expenditure for the Project, the number and type of full-time permanent positions and part-time positions retained and created by the Project, and the wage rates and salaries (excluding benefits and overtime) associated with the positions, and the compensatory value of eligible benefits (the “Annual Compliance Survey”). Catalent shall provide the City with the Annual Compliance Survey within thirty (30) days of such request. The City shall utilize this information and the information required to be filed by Catalent in the State of Indiana CF-1 Compliance with the Statement of Benefits Form as well as the City of Bloomington Living Wage Certification Form to verify that Catalent has complied with the Commitments at all times after the Commitment Date and during the duration of the abatement. Catalent further agrees to provide the City with additional information the City reasonably may request to clarify the information provided in the Annual Compliance Survey, the CF-1 Form and the Living Wage Certification Form within a reasonable time following any such additional request.

**ARTICLE 4**  
**TERMINATION; SUBSTANTIAL COMPLIANCE; CONSEQUENCES AND REMEDIES**

**4.1. Right to Terminate.**

- (a) **Termination by the City.** In accordance with Indiana Code § 6-1.1-12.1-5.9 and Resolution 22-06, the City, by and through the Common Council, shall terminate the ERA designation and associated property tax abatement deductions if any of the following occur: (1) Catalent fails or refuses to provide information requested in the Annual Compliance Survey; (2) the Common Council finds, under Indiana Code § 6-1.1-12.1-5.9, that Catalent has not substantially complied with its Commitments by December 31, 2027, that Catalent’s failure to substantially comply with the Commitments was not due to factors beyond its control, and that Catalent has failed to make reasonable efforts to substantially comply by that date with the Commitments; (3) the City finds that Catalent has ceased operations at and around 1300 S. Patterson Drive; or (4) the land and improvements receiving tax abatement are not developed and used in a manner that complies with local code.



(b) **Termination by Catalent.** In the event that the Living Wage Ordinance is materially changed by the Common Council during the Term of this Agreement in a manner that affects Catalent, Catalent may, at its option, terminate this Agreement. For the avoidance of doubt, an increase to the living wage amount to adjust for annual inflation, which is currently authorized by Bloomington Municipal Code 2.28.030, is not a material change to the Living Wage Ordinance. If there is an amendment to the Living Wage Ordinance, the City will provide notice to Catalent. Providing notice under this subsection does not mean that the Living Wage Ordinance has been materially changed in a manner that affects Catalent. In the event Catalent wishes to exercise this provision, the personal property tax abatement shall end on the date Catalent serves its notice of intent to terminate to the City. For the avoidance of doubt, the personal property tax abatement will remain in effect for taxes assessed up to the date of termination. Catalent must notify the City of its intention to terminate under this provision in writing within thirty (30) days of the material change going into effect. Catalent must also notify the County Auditor and the County Assessor, in writing, of its desire to terminate the property tax abatements within three (3) days of notifying the City of its intention to terminate. Copies of the written notification to the County Auditor and the County Assessor shall also be sent to the City. In the event that Catalent notifies the City of its intent to terminate, and Catalent has been compliant with the Living Wage Ordinance prior to the material change, the City may not require repayment of the benefit received under this Agreement for a violation of the Living Wage Ordinance.

4.2 **Substantial Compliance.** As used in this Agreement, “substantial compliance” shall mean Catalent’s compliance with all of the following:

- (a) By December 31, 2027, making capital expenditures of not less than Ninety Percent (90%) of the capital expenditures that Catalent has set forth in its Statement of Benefits and Application, which equates to an aggregate investment of at least \$315,000,000 in real and/or personal property.
- (b) By December 31, 2027, hiring of at least Ninety Percent (90%) of the number of employees and/or level of wages (excluding benefits and overtime) that Catalent has set forth in its Statement of Benefits, which equates to the creation of at least Nine hundred (900) new full-time jobs with an annual aggregate payroll of at least \$59,904,000, and for the duration of the abatement maintaining a total workforce at the Site of at least 4,112 employees which includes the 900 new full-time jobs described in this paragraph. . The mean wage for jobs added under this abatement shall be at least \$32.00 per hour for the duration of the abatement.
- (c) For the duration of the tax abatement term, the payment of an hourly wage rate of at least the City of Bloomington Living Wage in effect at the time of wage payment, as published annually by the City of Bloomington, to all covered full-time and part-time individuals employed at the Facility by the Project, pursuant and as defined by Bloomington Municipal Code 2.28.
- (d) For the duration of the tax abatement term, the continued operation at the Site as described in the Statement of Benefits and Application. Substantial noncompliance may include an announcement by Catalent that it is ceasing operations at the Site.

4.3. **Factors Beyond the Control of Catalent.** As used in this Agreement, factors beyond the control of Catalent shall only include factors not reasonably foreseeable at the time of the Application and submission of Statement of Benefits which are not caused by any act of Catalent and which materially and adversely affect the ability of Catalent to substantially comply with this Agreement. Where there has been a factor beyond the control of Catalent that substantially prohibits its compliance with this Agreement, then that compliance shall not be required.

4.4. **Remedies and Consequences for Failure to Meet Substantial Compliance.** If the City, through the Common Council, terminates the ERA designation and associated tax abatement deduction in accordance with this Article 4, the City will follow all processes required by law. Additionally, the City will follow any applicable process as described in Section 4.4(a) of this Agreement. As a result of a termination, Catalent may be required to repay the City all or a portion of the tax abatement savings received through the date of such termination, as provided by this Agreement or otherwise authorized by Indiana law.

**(a) Notice to Catalent of City's Intent to Terminate or Require Repayment.**

1. **If Catalent fails or refuses to provide information requested in the Annual Compliance Survey.** In the event that Catalent fails or refuses to provide information requested by the City in the Annual Compliance Survey, the City—through its Department of Economic and Sustainable Development—will provide Catalent with written notice of its failure or refusal to provide information. This notice will provide Catalent with an opportunity to meet with the City's designated representatives to provide the information requested by the Annual Compliance Survey. If Catalent does not meet with the City's designated representatives or otherwise provide the information requested by the Annual Compliance Survey within thirty (30) days of the service of the written notice, the City's Department of Economic & Sustainable Development may refer Catalent's noncompliance to the Common Council. The Common Council may conduct a hearing for the purpose of considering Catalent's compliance with the Annual Compliance Survey request. Based on the information presented at the hearing by Catalent and other interested parties, the Common Council shall determine whether Catalent has failed or refused to provide the requested information. If the Common Council determines that Catalent has failed or refused to provide the requested information, the Common Council may adopt a resolution terminating the ERA and associated property tax abatement. If the Common Council adopts such a resolution:

- a. Pursuant to Indiana Code § 6-1.1-12.1-5.9(d), the Common Council shall immediately mail a certified copy of the resolution to: (1) Catalent; (2) the county auditor; and (3) the county assessor. The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the Common Council's resolution is adopted after the county treasurer has mailed the statement required by Indiana Code § 6-1.1-22-8.1, the county treasurer shall immediately mail Catalent a revised statement that reflects the termination of the deduction.

- b. Catalent may appeal the resolution by filing a complaint in the office of the clerk of the Monroe Circuit Court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against Catalent. An appeal under this subsection shall be heard without a jury. The court shall hear evidence on the appeal and may confirm the action of the Common Council or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.
  - c. Catalent will repay the property tax savings as calculated under Section 4.4(c) of this Agreement. If Catalent files an appeal under Section 4.4(a)(1)(b), the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.
2. **If Catalent's CF-1 Form indicates that Catalent has not substantially complied with the Commitments due to factors which were not beyond its control.** In the event that the City's review of Catalent's CF-1 Form indicates that Catalent has not substantially complied with its Commitments due to factors which were not beyond its control and has failed to make reasonable efforts to substantially comply, the City will comply with the procedure outlined in Indiana Code § 6-1.1-12.1-5.9. In addition to the requirements imposed by law on the Common Council's written notice to Catalent, the written notice will include a written statement calculating the amount due from Catalent to the City under Section 4.4(c) of this Agreement.
3. **If Catalent ceases operations at the Site.** In the event that the City comes to believe that Catalent has ceased operations at and around its 1300 S. Patterson Drive location, which shall include the properties expanded as part of the ERA designation in Common Council Resolution 22-05, during the term of this Agreement, the Common Council may conduct a hearing to determine: (1) whether Catalent has ceased operations at its 1300 S. Patterson Drive location, (2) whether Catalent obtained the property tax abatement by intentionally providing false information concerning the property owner's plans to continue operations at the Site and/or (3) whether the property tax abatement should be terminated and/or whether all or a portion of the tax abatement savings should be repaid. If the Common Council intends to conduct a hearing on this topic, it will serve written notice on Catalent at the address listed in Article 5.7 of this Agreement at least ten (10) days before the hearing.
4. **If the Department of Economic & Sustainable Development believes that Catalent is not substantially compliant with its Commitments.** In the course of its interactions with Catalent during the term of this Agreement, the Department of Economic & Sustainable Development may come to believe that Catalent is not substantially compliant with its Commitments. In that event, the Department of Economic & Sustainable Development may work with Catalent to determine whether Catalent is substantially compliant with its Commitments and work with Catalent to become substantially compliant with its Commitments in the event that Catalent is not substantially compliant. Should Catalent not be substantially compliant with its Commitments, the Department of Economic & Sustainable Development may refer

Catalent's noncompliance to the Common Council. At least thirty (30) days before referring Catalent's noncompliance to the Common Council under Section 4.4(a)(4), the Department of Economic & Sustainable Development shall provide written notice to Catalent that describes and presents any documentation it has in its possession supporting the basis for the Department of Economic & Sustainable Development's belief that Catalent is not compliant with its Commitments and informs Catalent that the Department of Economic & Sustainable Development intends to refer the matter to the Common Council. Upon receipt of a referral from the Department of Economic & Sustainable Development, the Common Council may conduct a hearing for the purpose of considering Catalent's compliance with its Commitments. Based on the information presented at the hearing by Catalent and other interested parties, the Common Council shall determine whether Catalent is substantially compliant with its Commitments. If the Common Council determines that Catalent is not substantially compliant with its Commitments, the Common Council may, at its sole discretion, adopt a resolution terminating the ERA and associated property tax abatement. If the Common Council adopts such a resolution:

- a. The Common Council shall immediately mail a certified copy of the resolution to: (1) Catalent; (2) the county auditor; and (3) the county assessor. The county auditor shall, effective as of the date of the Common Council's cancellation, remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the Common Council's resolution is adopted after the county treasurer has mailed the statement required by Indiana Code § 6-1.1-22-8.1, the county treasurer shall immediately mail Catalent a revised statement that reflects the termination of the deduction.
- b. Catalent may appeal the resolution by filing a complaint in the office of the clerk of the Monroe Circuit Court. An appeal under this subsection shall be heard without a jury. The court shall hear evidence on the appeal and may confirm the action of the Common Council or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.
- c. Catalent will repay the property tax savings as calculated under Section 4.4(c) of this Agreement. If Catalent files an appeal under Section 4.4(a)(4)(b), the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

Nothing in Section 4.4(a)(4) of this Agreement shall deprive the City of any rights it has under any applicable law or any other Section of this Agreement.

- (b) **Timely Repayment.** After a termination of the abatement, in the event the City requires repayment of the tax abatement savings as provided hereunder, Catalent shall be provided with a written statement calculating the amount due (the "Statement"), and Catalent shall make such repayment to the City within sixty (60) days of receipt of the Statement. If Catalent does not make timely payment, the City shall be entitled to all reasonable costs including, but not limited to, collection costs and attorney's fees incurred in the enforcement and collection of the tax abatement savings required to be repaid hereunder.

(c) **Calculation of Repayment.** In the event the City determines that all or a portion of the tax abatement savings should be repaid, the amount of such repayment shall be calculated as follows:

1. **Full repayment.** If at any time during the term of this Agreement, the City finds Catalent has not substantially complied under subsection 4.2(d) above, or with the requirements of Annual Compliance Survey reporting, then the City, through the Common Council, may terminate the ERA designation and associated tax abatement deduction, and upon such a termination, may require Catalent to repay all of the tax abatement savings received through the date of such termination.

2. **Partial Repayment.**

(A) Failure to Substantially Comply under Subsection 4.2(b)

(i) In the event the City finds that by or before December 31, 2027, Catalent has not substantially complied under subsection 4.2(b) above, that Catalent's failure to substantially comply with the Commitments was not due to factors beyond its control, and that Catalent has failed to make reasonable efforts to substantially comply by that date with the Commitments, then the City, through the Common Council, may, at their sole discretion, terminate the ERA designation and require Catalent to repay only a percentage of the total tax abatement savings received for activity occurring through December 31, 2027. Repayment shall be calculated by multiplying the Noncompliance Rate as described in subsection (iii) below, to the total amount of tax abatement savings received for the period of time between the execution of this Agreement and December 31, 2027.

(ii) In the event the City finds that by or before December 31, 2027, Catalent has achieved substantial compliance under subsection 4.2(b), but that it has failed to maintain substantial compliance in one or more years thereafter, then City, through the Common Council, may, at their sole discretion, require Catalent to repay only a percentage of the tax abatement savings received for each year in which substantial compliance was not maintained. Repayment shall be calculated by multiplying the Noncompliance Rate as described under subsection (iii) below, to the total amount of tax abatement savings received for the year in question in which substantial compliance was not maintained.

(iii) For purposes of this subsection 4.4(c)(2), the Noncompliance Rate shall be calculated as follows. First, the amount of actual benefit creation in the particular category (number of jobs, mean wage, or annual aggregate payroll) shall be divided by the corresponding established amount for substantial compliance in that category to determine the compliance rate. This yields the compliance rate.

The compliance rate then shall be subtracted from 100% to determine the percentage of noncompliance ("Noncompliance Rate"); however, for the ten years of abatement approved by the Common Council for real property investment and the first ten years of abatement approved by the Common Council for personal property investment, the

Noncompliance Rate shall be capped at a maximum of 20%. The Noncompliance Rate shall be multiplied by the tax abatement savings described in subsections 4.4(c)(2)(i) or (ii) above., to arrive at the amount of tax abatement savings to be repaid. If Catalent fails to substantially comply with the Commitments for more than one of the aforementioned categories, repayment shall be based only on the highest level of noncompliance from among those categories, not spread across all categories.

Examples: Out of 1,000 proposed new jobs, 900 represents substantial compliance. If 540 jobs are actually created, then the percentage of repayment is the following:  $540 \text{ actual jobs} \div 900 \text{ jobs representing substantial compliance} = 60\% \text{ compliance rate}$ ;  $100\% - 60\% = 40\% \text{ Noncompliance Rate}$  (capped at a maximum of 20%); as a result, 20% of the tax abatement savings would be repaid. If 765 jobs are created, then the percentage of repayment is the following:  $765 \text{ actual jobs} \div 900 \text{ jobs representing substantial compliance} = 85\% \text{ compliance rate}$ ;  $100\% - 85\% = 15\% \text{ Noncompliance Rate}$ ; as a result, 15% of the tax abatement savings would be repaid. These examples assume that the noncompliance rate for the number of new jobs is highest related to any noncompliance rates for personal property investment or annual aggregate payroll.

(B) Failure to Substantially Comply with Subsection 4.2(c)

In the event the City finds Catalent has not complied with subsection 4.2(c), above, and has not adequately cured such non-compliance as allowed for in the Bloomington Living Wage Ordinance (Bloomington Municipal Code 2.28), the City, through the Common Council, may terminate the ERA designation and require Catalent to repay a percentage of its annual tax abatement savings received through the date of termination, based on the following schedule:

- Noncompliance in Years 1-5: 100% repayment for the year of noncompliance, up to 100% repayment (at the sole discretion of the City) for previous years.
- Noncompliance in Years 6-10: 100% repayment for the year of noncompliance, up to 50% repayment (at the sole discretion of the City) for previous years.
- Noncompliance in Years 11-20: 100% repayment for the year of noncompliance, up to 50% repayment (at the sole discretion of the City) for previous years after year 10; up to 30% repayment (at the sole discretion of the City) for previous years in or before year 10.

## ARTICLE 5 GENERAL PROVISIONS

5.1. **Time of Essence.** Time is of the essence of this Agreement. The parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

5.2. **Amendment.** This Agreement may be amended only by the mutual agreement of the parties evidenced by a written amendment.

5.3. **Entire Agreement.** This Agreement sets forth all agreements, understandings and covenants between and among the parties relative to the matters herein contained. This Agreement supersedes all prior written agreements, negotiations and understandings, written and oral, and shall be deemed a full integration of the entire agreement of the parties.

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

5.5 **Waiver.** Neither the failure nor any delay on the part of the City to exercise any right, remedy, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege preclude any other or further exercise of the same or of any other right, remedy, power, or privilege with respect to any occurrence or be construed as a waiver of such right, remedy, power, or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

5.6. **Indiana Law; Jurisdiction.** This Agreement shall be construed in accordance with the laws of the State of Indiana. Jurisdiction shall be in Monroe County, Indiana.

5.7. **Notice.** Any notice to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be (i) delivered personally, with a receipt requested therefore; or (ii) sent by a nationally recognized overnight courier service; or (iii) delivered by United States registered or certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the parties at their respective addresses set forth below, and shall be effective (a) upon receipt or refusal if delivered personally; (b) one (1) business day after depositing with such an overnight courier service; or (c) two (2) business days after deposit in the United States mail, if mailed. A party may change its address for receipt of notices by service of a notice of such change in accordance with this Section 5.7. A party's change of address for receipt of notices does not require compliance with Section 5.2.

If to the City:

Director, Department of Economic & Sustainable Development  
P.O. Box 100  
City Hall, 401 North Morton Street, Suite 150  
Bloomington, Indiana 47402

with a copy to:

City of Bloomington Corporation Counsel  
P.O. Box 100  
City Hall, 401 North Morton Street, Suite 220  
Bloomington, Indiana 47402

If to Catalent:

Andrew Espejo  
General Manager  
Catalent Indiana, LLC  
1300 South Patterson Drive  
Bloomington, IN 47403

with a copy to:

Catalent Pharma Solutions, Inc.  
Attn: General Counsel  
14 Schoolhouse Road  
Somerset, NJ 08873

5.8. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

5.9. **Consent or Approval.** Except as otherwise provided in this Agreement, whenever consent or approval of either party is required, such consent or approval shall not be unreasonably withheld.

5.10. **Interpretation.** This Agreement has been jointly negotiated by the parties and shall not be construed against a party because that party may have primarily assumed responsibility for the drafting of this Agreement.

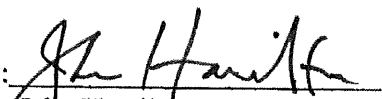
5.11. **Exhibits.** All exhibits attached hereto are declared to be a part of this Agreement and are incorporated herein by this reference.

5.12. **Binding on Heirs, Assigns, and Merged Entities.** The benefits and obligations of the Agreement will be binding upon and inure to the benefit of any successors in interest of, or assignees of, the parties. The City and Catalent further state that any restructuring of Catalent's corporate structure by merger with any other entity shall not affect the binding nature of the benefits and obligations this Agreement establishes on the parties.

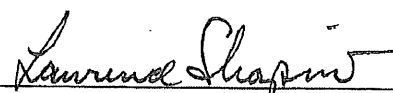
CITY OF BLOOMINGTON, INDIANA

CATALENT INDIANA, LLC

By:

  
John Hamilton, Mayor

By:

  
Lawrence Shapiro, Vice President – Head of  
Global Tax, Treasurer



