

ECONOMIC DEVELOPMENT AGREEMENT

Mitsubishi Heavy Industries Climate Control, Inc.

THIS ECONOMIC DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into effective this ____ day of _____, _____, by and among the City of Franklin, Indiana ("City"), by and through its Redevelopment Commission (the "RDC"), and Mitsubishi Heavy Industry Climate Control, Inc. ("MCC" or the "Owner") .

WITNESSETH:

WHEREAS, the RDC desires to foster economic development and redevelopment within the City; and

WHEREAS, MCC has proposed to undertake a joint venture that would include certain improvements being made to MCC's real property and the purchase of certain personal property. See Exhibit "A" for details of the proposed project (the "Project").

WHEREAS, MCC has requested certain economic development assistance from the RDC to undertake the Project; and

WHEREAS, the RDC has determined that the completion of the Project is in the best interests of the citizens of the City, and, therefore, the RDC, subject to compliance with all applicable statutory requirements, and a review of MCC's financial condition and ability to complete the Project, desires to take certain steps to induce MCC to complete the Project; and

WHEREAS, to stimulate and induce the development and the completion of the Project, the RDC agrees, subject to further proceedings as required by law, to provide the economic development incentives stated below;

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 acknowledged, the parties agree as follows:

Article I. RECITALS

Section 1.01 Recitals Part of Agreement. 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 Section 1.01.

Article II. MUTUAL ASSISTANCE

Section 2.01 Mutual Assistance. The parties agree, subject to further proceedings required by law, to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications (and, in the case of the RDC, the adoption of resolutions), copies of which will be provided to all parties, as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement, and to aid and assist each other in carrying out said terms, provisions and intent.

Article III. PROJECT DEVELOPMENT

Section 3.01 Acquisition and Disposition of Real Property Improvements and/or Personal Property by RDC. Subject to compliance with all applicable statutory requirements, the RDC intends to purchase (or, in the event MCC purchases, then reimburse MCC for the payments related to) real property improvements and/or personal property purchased as part of this project up to an amount totaling One Hundred Fifty Thousand Dollars (\$150,000.00) for valuable consideration, including MCC's completion of the Project.

Section 3.02 Project Development. MCC shall commence construction of the Project by no later than thirty (30) days following the parties' approval of this agreement, and shall complete construction and equipping of the Project within twelve (12) months thereafter, subject to permitted delays provided for in Section 3.03 hereof.

Section 3.03 Permitted Delays. Whenever performance is required of any party hereunder, such party shall use all due diligence and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God (such as weather), war, civil commotion, riots, strikes, picketing, or other labor disputes, unavailability of labor or materials, or damage to work in progress by reason of fire or other casualty or similar causes beyond the reasonable control of a party (such as unforeseen delays in obtaining licensing or permits, but other than financial reasons), then the time for performance as herein specified shall be appropriately extended by the time of the delay actually caused by such circumstances. If (i) there should arise any permitted delay for which MCC, or the RDC is entitled to delay its performance under this Agreement and (ii) MCC, or RDC anticipates that such permitted delay will cause a delay in its performance under this Agreement, then MCC, or RDC, as the case may be, agrees to provide written notice to the other parties of this Agreement of the nature and the anticipated length of such delay.

Article IV. ECONOMIC DEVELOPMENT INCENTIVES

Section 4.01 Form of Incentives / Parties' Rights and Duties. The incentives offered by the RDC and the parties' rights and duties will be as follows, all subject to compliance with applicable statutory requirements:

- (a) In the event MCC purchases the real property improvements and/or personal property required as part of the Project and provides the RDC with invoice showing the value of the improvement for which MCC requests reimbursement, the RDC will reimburse MCC with TIF Revenues the value up to, but not exceeding, One Hundred Fifty Thousand Dollars (\$150,000.00) for said improvements. Title in said improvements shall at all times remain with MCC, who, upon request, shall grant a corresponding security interest structured as follows in favor of the RDC:
 - (i) If MCC fail to complete the Project within twenty-four (24) months of the date of this agreement, MCC will re-pay the incentive to the RDC on demand;
 - (ii) If MCC completes the Project within twenty-four (24) months of the date of this agreement, MCC will pay anything to the RDC;

Section 4.02 Alternative Financing. If the RDC and MCC agree that an alternative form of financing the incentive would better accomplish the purposes of this Agreement, the terms of this Agreement will be amended to provide for such alternative financing.

Section 4.03 Indemnity and Defense Obligations. The work performed by MCC will be at their risk, exclusively. To the fullest extent permitted by law, MCC will indemnify, defend (at their sole expense), and hold harmless the City of Franklin, Indiana, the RDC, and their members, officers, employees, and agents ("Indemnified Parties"), from and against any and all claims for bodily injury, death or damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (including but not limited to investigative and repair costs, attorneys' fees and costs, and consultants' fees and costs) ("Claims") which arise or are in any way connected with the premises, work performed, materials furnished, or services provided under this agreement unless such Claims arise by reason of the negligence or omission of the City, RDC, or the Indemnified Parties. These indemnity and defense obligations shall apply to any acts or omissions, negligent or willful misconduct of MCC, their employees or agents, whether active or passive. These indemnification and defense obligations hereunder shall extend to claims occurring after this Agreement is terminated as well as while it is in force, and shall continue until it is finally adjudicated.

Article V. AUTHORITY

Section 5.01 Actions. The RDC represents and warrants that it has taken or will take (subject to further proceedings required by law and MCC's performance of its agreements and obligations hereunder) such action(s) as may be required and necessary to enable it to execute this Agreement and to carry out fully and perform the terms, covenants, duties and obligations on its part to be kept and performed as provided by the terms and provisions hereof.

Section 5.02 Powers. The RDC represents and warrants that it has full lawful right, power and authority, under currently applicable law, to execute and deliver and perform their respective obligations under this Agreement.

Article VI. GENERAL PROVISIONS

Section 6.01 Time of Essence. Time is of the essence of this Agreement. The parties shall make every reasonable effort to expedite the subject matters hereof (subject to any time limitations described herein) and acknowledge that the successful performance of this Agreement requires their continued cooperation.

Section 6.02 Breach. Before any failure of any party of this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform such obligation and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining party within thirty (30) days of the receipt of such notice. If after said notice, the breaching party fails to cure the breach, the non-breaching party may seek any remedy available at law or equity, subject however to the compulsory non-binding mediation provided in Section 6.13, below.

Section 6.03 Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the parties, by the adoption of an ordinance or resolution of the RDC approving said amendment, as provided by law, and by the execution of said amendment by the parties or their successors in interest.

Section 6.04 No Other Agreement. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.

Section 6.05 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, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

Section 6.06 Construction and Interpretation of Agreement / Indiana Law. This Agreement shall be construed in accordance with the laws of the State of Indiana. The parties agree that they and their attorneys have each reviewed this Agreement, and that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party or parties shall not be employed in the interpretation of this Agreement.

Section 6.07 Waiver Ineffective. No waiver, modification or amendment of any term, condition or provision of this Agreement shall be valid or have any force or effect unless made in writing and signed by the parties.

Section 6.08 Notices. All notices and requests required pursuant to this Agreement shall be deemed sufficiently made if delivered, as follows:

To MCC: Mitsubishi Heavy Industries Climate Control, Inc.
Attn: Bob Francis
1200 Mitsubishi Way
Franklin IN 46131

To the RDC: Franklin Redevelopment Commission
70 East Monroe Street
Franklin IN 46131

or at such other addresses as the parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. In the event notice delivered by registered mail is refused or otherwise undeliverable, said notice may be delivered by regular mail. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

Section 6.09 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.

Section 6.10 Assignment. The rights and obligations contained in this Agreement may not be assigned by the parties, or any affiliate thereof without the express prior written consent of the other parties; provided, however, that MCC may transfer all or a portion of their rights and obligations hereunder to an affiliate upon notice to but without the consent of the RDC, but any such transfer to an affiliate shall not have the effect of releasing the assignor from its obligations hereunder. Further, MCC may operate under an assumed business name.

Section 6.11 No Third-Party Beneficiaries. This Agreement shall be deemed to be for the benefit solely of the parties hereto and shall not be deemed to be for the benefit of any third-party.

Section 6.12 Effective Date. Notwithstanding anything herein to the contrary, this Agreement shall not be effective until all parties hereto have executed this Agreement and the RDC has approved or ratified this Agreement at a public meeting.

Section 6.13 Submission of Disagreements to Mediation. In the event the parties disagree as to any material matter (such as, but not limited to, whether a default has occurred, whether one party has a duty to act or a duty to refrain from acting, or whether an ambiguity exists as to the scope and terms of the parties' agreements), the dispute will be submitted to non-binding meditation under the Indiana Rules of Alternative Dispute Resolution.

Section 6.14 No Joint Venture or Partnership. Nothing contained in this Agreement shall be construed as creating either a joint venture or partnership relationship between the RDC and either MCC, or either of them, or any affiliates thereof.

IN WITNESS WHEREOF, the parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY OF FRANKLIN REDEVELOPMENT COMMISSION

By: _____
Robert D. Heuchan, President

MCC

By: Aki Kubota
AKI KUBOTA, SECRETARY