



# Huntsville, Alabama

305 Fountain Circle  
Huntsville, AL 35801

## Cover Memo

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**Meeting Type:** City Council Regular Meeting **Meeting Date:** 4/10/2025

**File ID:** TMP-5396

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**Department:** Urban Development

**Subject:**

**Type of Action:** Approval/Action

Resolution authorizing the Mayor to enter into a Project Development Agreement between the City of Huntsville and Infinity Labs, LLC, for its expansion project.

Resolution No.

**Finance Information:**

**Account Number:** TBD

**City Cost Amount:** TBD

**Total Cost:** TBD

**Special Circumstances:**

**Grant Funded:** NA

**Grant Title - CFDA or granting Agency:** NA

**Resolution #:** NA

**Location: (list below)**

**Address:**

**District:** District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

**Additional Comments:**

## **RESOLUTION NO. 25-288**

**WHEREAS**, Infinity Labs, an Ohio limited liability company (the “Company”), operates a technical services facility in the City within which the Company undertakes advanced research and other engineering and technical services to defense organizations; and

**WHEREAS**, the City has determined to enter into an agreement with the Company, the form of which is attached hereto (the “Project Development Agreement”), in connection with the expansion of the Company’s operations within the City (the “Project”) through a capital investment by the Company of approximately \$500,000 and the Company hiring up to fifty-nine (59) additional full-time equivalent employees earning a minimum wage of not less than \$52.89/hour, exclusive of fringe benefits and overtime pay (the “Required Hourly Wage”); and

**WHEREAS**, under the Project Development Agreement, the City will make payments to the Company totaling up to \$150,000 based upon the number of additional full-time equivalent employees earning at least the Required Hourly Wage hired by the Company for the Project, all as more particularly described and set forth in the Project Development Agreement; and

**WHEREAS**, the City Council of the City hereby recites that the City’s obligations under and in furtherance of the Project Development Agreement, and the transactions therein described, are being undertaken pursuant to the authority of Amendment 772 to the Constitution of Alabama of 1901, as amended, recodified as Section 94.01 of the Official Recompilation of the Constitution of Alabama of 1901 (“Amendment 772”), that such obligations are being undertaken by the City in furtherance of any power or authority authorized in Amendment 772, and that the City Council has determined that the expenditure of public funds for the purpose specified in the Project Development Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities;

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Huntsville (the “Council”), that the Project Development Agreement is hereby authorized and approved, and that the Mayor be, and he is hereby, authorized and directed to execute, by and on behalf of the City, the Project Development Agreement in substantially the form attached hereto and identified as “Project Development Agreement”, with such changes thereto as shall be approved by the Mayor, herein authorized to act by and on behalf of the City for such purpose, and that the City Clerk is hereby authorized to execute, attest and affix the corporate seal of the City to the Project Development Agreement; and

**BE IT FURTHER RESOLVED**, that the Mayor is hereby further authorized and directed to execute and deliver, by and on behalf of the City, such amendments, documents, instruments, and agreements as contemplated in the Project Development Agreement or as may be necessary to accomplish the agreements contained in or that are in furtherance of the intent of the Project Development Agreement, and the City Clerk is hereby authorized to execute, attest and affix the corporate seal of the City to any such amendments, documents, instruments, and agreements.

**RESOLUTION NO. 25-288 (Cont'd)**

**ADOPTED** this the 10th day of April, 2025.

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President of the City Council of  
the City of Huntsville, Alabama

**APPROVED** this the 10th day of April, 2025.

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Mayor of the City of Huntsville,  
Alabama

## PROJECT DEVELOPMENT AGREEMENT

**THIS PROJECT DEVELOPMENT AGREEMENT** (this “Agreement”) is hereby made and entered into on April 11, 2025 (the “Effective Date”), by and between the **CITY OF HUNTSVILLE, ALABAMA**, an Alabama municipal corporation (the “City”) and **INFINITY LABS, LLC**, a limited liability company under the laws of the State of Ohio (the “Company”). The City and the Company are herein together sometimes referred to collectively as the “Parties” and, individually, as a “Party”.

### RECITALS

**WHEREAS**, the Company presently owns and operates a technical services facility (the “Existing Facility”) located at 1300 Meridian Street, Suite 200b, Huntsville, Alabama 35801, within the corporate limits of the City (the “Site”) within which the Company, among other things, undertakes research and other engineering and technical services to defense organizations; and

**WHEREAS**, the Company has determined to expand its operations at the Site and ultimately seek a permanent location with the City, including the acquisition of new equipment and capital investments totaling approximately \$500,000 (the Existing Facility, as so expanded, the “Facility”) through the addition of up to 59 full-time employees, earning an average hourly wage of \$52.89 exclusive of Fringe Benefits and overtime pay; and

**WHEREAS**, the Company has represented to the City that, due to the highly competitive market in Huntsville for qualified industrial employees, the Company will incur substantial costs and expenses in connection with its industrial jobs recruitment and retention efforts necessary to achieve the additional 59 full-time employees over the level of 4 full-time equivalent employees at the Company as of July 15, 2025 (being such date as when the Company and the City negotiated the terms hereinafter described); and

**WHEREAS**, the City has determined that the aforesaid expansion by the Company of its operations in Huntsville will substantially expand and enhance the prosperity, contentment, and general welfare of the City and its residents by, among other things: (i) promoting, improving, and expanding economic and industrial development; (ii) increasing the number and diversity of manufacturing and industrial jobs and related employment opportunities; (iii) enabling the area surrounding the Facility to better attract and retain manufacturing and industrial enterprises; and (iv) expanding the overall tax base of the City; and

**WHEREAS**, the City hereby finds that the payments to the Company described in this Agreement are being made under and in furtherance of any power and authority authorized by Amendment 772 to the Constitution of Alabama of 1901 (the “Alabama Constitution”), and that the City has determined that the expenditure of public funds for the purposes herein specified will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

**NOW, THEREFORE**, for and in consideration of the foregoing premises, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged, the Parties do hereby covenant, agree and bind themselves as follows:

**ARTICLE I**  
**REPRESENTATIONS AND WARRANTIES**

**Section 1.1 Representations and Warranties of the City.** The City hereby makes the following representations and warranties:

(i) The City, by action of its governing body, has duly authorized the execution, delivery and performance of this Agreement, and has the power to perform its obligations contained herein.

(ii) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the City, violates, constitutes a default under or a breach of any agreement, instrument, contract, mortgage, ordinance, resolution or indenture to which the City is a party or to which the City or its assets or properties are subject.

(iii) There is not now pending nor, to the knowledge of the City, threatened, any litigation affecting the City which questions (A) the validity or organization of the City, (B) the members, titles or positions of the members of the governing body or the manner in which the officers of the City are selected, or (C) the subject matter of this Agreement.

**Section 1.2 Representations and Warranties of the Company.** The Company hereby makes the following representations and warranties:

(a) The Company is duly organized and validly existing as a limited liability company under the laws of the State of Ohio, and has duly authorized its execution, delivery and performance of this Agreement.

(b) Neither the execution and delivery of this Agreement, nor the performance hereof, by the Company requires any consent of, filing with or approval of, or notice to, or hearing with any person or entity (including, but not limited to, any governmental or quasi-governmental entity), except for such consents, filings, notices and hearings described herein, or already held or maintained.

(c) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the Company, violates, constitutes a default under or a breach of (i) the Company's certificate of incorporation, operating agreement, or other organizational documents, (ii) any agreement, instrument, contract, mortgage or indenture to which the Company is a party or to which the Company or its assets are subject, or (iii) any judgment, decree, order, ordinance, regulation, consent or resolution applicable to the Company or any of its assets.

(d) There is not now pending nor, to the knowledge of the Company, threatened, any litigation affecting the Company which questions the validity or incorporation of the Company, or any of the representations and warranties of the Company contained herein.

**ARTICLE II**  
**OBLIGATIONS AND COMMITMENTS OF THE COMPANY**

**Section 2.1    Jobs Target.** The Company intends to employ up to 59 net new Full-Time Employees at the Facility which, together with existing employees at the Existing Facility, will earn an average hourly wage of \$52.89, exclusive of Fringe Benefits and overtime pay, in connection with the Expanded Operations within the City (the “Jobs Target”), and to have achieved the Jobs Target by December 31, 2028 (the “Jobs Target Deadline”). Anything in the foregoing to the contrary notwithstanding, whether express or implied, the Company is not contractually obligated to achieve the Jobs Target, and any failure of the Company to not achieve the Jobs Target shall in no way constitute a breach, default or other failure of performance by the Company under this Agreement.

**Section 2.2    Additional Obligations and Commitments.**

(a) The Company hereby covenants and agrees to cause any construction activities regarding improvements to the Existing Facility to be conducted in compliance with all applicable laws, ordinances, rules and regulations of any governmental authority, including, without limitation, all applicable licenses, permits, building codes, restrictive covenants, zoning and subdivision ordinances and flood, disaster and environmental protection laws. The Company shall require any architect, general contractor, subcontractor or other business performing any work in connection with the said improvements to obtain all necessary permits, licenses and approvals to construct the same.

(b) At all times during the Term, the Company shall be in material compliance with all applicable laws, ordinances, rules and regulations of the City and, further, shall be current in payment of any and all taxes, fees, and other charges imposed by the City and all local government entities unless such payments are the subject of a bona fide dispute and are being challenged by the Company.

(c) The Company agrees that besides the reporting described in this Agreement, the Company shall otherwise meet the reporting requirements with respect to this Agreement as provided by applicable law.

**ARTICLE III**  
**OBLIGATIONS OF THE CITY**

**Section 3.1    City Payments.** (a) The City hereby agrees to make certain payments to the Company in connection with the additional Full-Time Employees at the Facility (such payments herein called the “City Payments”), up to the aggregate sum of \$150,000, as follows:

(i) the City shall remit to the Company the sum of \$50,000 within 90 days after the Company furnishes to the City a certificate in the form set forth on **EXHIBIT A** hereto, signed by an authorized employee of the Company and submitted to the City on or before December 31, 2028, certifying that, as of the last business day of each of the three (3) consecutive calendar months immediately

preceding the month in which such certificate is submitted, the Company employed at least 24 Full-Time Employees at the Facility earning an average hourly wage of \$52.89, exclusive of Fringe Benefits and overtime pay, along with all supporting information and materials as shall enable the City to confirm and independently verify the employment and wage levels so certified by the Company; and

(ii) the City shall remit to the Company the sum of \$50,000 within 90 days after the Company furnishes to the City a certificate in the form set forth on **EXHIBIT A** hereto, signed by an authorized employee of the Company and submitted to the City on or before December 31, 2028 certifying that, as of the last business day of each of the three consecutive calendar months immediately preceding the month in which such certificate is submitted, the Company employed at least 44 Full-Time Employees at the Facility earning an average hourly wage of \$52.89, exclusive of Fringe Benefits and overtime pay, along with all supporting information and materials as shall enable the City to confirm and independently verify the employment and wage levels so certified by the Company; and

(iii) the City shall remit to the Company the sum of \$50,000 within 90 days after the Company furnishes to the City a certificate in the form set forth on **EXHIBIT A** hereto, signed by an authorized employee of the Company and submitted to the City on or before December 31, 2028 certifying that, as of the last business day of each of the three consecutive calendar months immediately preceding the month in which such certificate is submitted, the Company employed at least 63 Full-Time Employees at the Facility earning an average hourly wage of \$52.89, exclusive of Fringe Benefits and overtime pay, along with all supporting information and materials as shall enable the City to confirm and independently verify the employment and wage levels so certified by the Company.

(b) The Company understands, acknowledges, and agrees that it shall not be entitled to payment under this Section 3.1(a) for any hiring targets satisfied following the Jobs Target Deadline. Both Parties acknowledge that the Company may simultaneously submit both certificates described in subparts (i), (ii), and (iii) under this Section 3.1(a).

### **Section 3.2    Recapture of City Payments.**

(a) The Company acknowledges that the payments by the City pursuant to this Article III are based largely on the estimated economic impact that will be realized within the City from the capital investment made by the Company in the construction, development and equipping of the existing facility located at the Site and additional payroll and job opportunities created by the Company in undertaking the expansion at the Site described in the recitals to this Agreement, and that those benefits to the City are justified only if the Company maintains the additional job creation and average minimum hourly wage targets for which the Company receives City Payments for a period of two (2) years following the earlier to occur of December 31, 2028 or such date as the City shall have remitted the final City Payment to the Company pursuant to Section 3.1 hereof (the “Jobs Target Period”). In consideration thereof, the Company agrees that, within ninety days following the first full calendar year after the Company shall have (i) certified

its final employment levels pursuant to Section 3.1(a)(iii)), if the Total City Payment equals \$150,000 or, (ii) if the Company has certified its employment levels pursuant to Section 3.1(a)(i) for which it received a City Payment equal to \$50,000 and, prior to having certified any employment levels pursuant to Section 3.1(a)(ii) or Section 3.1(a)(iii), the Company delivers notice to the City (an “Early City Payment Termination Notice”) that the Company desires to forfeit any right under this Agreement to receive a City Payment pursuant to Section 3.1(a)(ii) or Section 3.1(a)(iii), as the case may be (such date, the “Benchmark Date”), and within 90 days following the first anniversary of the Benchmark Date and within 90 days following the second anniversary of the Benchmark Date, the Company shall report the total average number of Full-Time Employees and the average hourly wage, exclusive of Fringe Benefits and overtime pay, for the twelve calendar months immediately preceding the Benchmark Date, the first anniversary of the Benchmark Date, and the second anniversary of the Benchmark Date, respectively. The Company hereby understands, acknowledges and agrees that, upon delivery of an Early City Payment Termination Notice, the Company shall not be entitled to receipt of any amounts pursuant to Section 3.1(a)(ii) or Section 3.1(a)(iii), as the case may be, for employees engaged after delivery of such notice, notwithstanding the fact the Company may have achieved 63 or more Full-Time Employees at the Facility by December 31, 2028.

(b) If, for any year during the Jobs Target Period, the number of Full-Time Employees earning the Minimum Average Hourly Pay reported by the Company under subsection (a) above (the “Reported Annual Employee Level”) is less than the Base Employment Figure, the Company shall owe the City a payment (a “Recapture Payment”) computed as follows:

Recapture Payment =  $[1 - (\text{Reported Annual Employee Level} / \text{Base Employment Figure})] * \text{Total City Payment}$

provided; there shall be reduced from any Recapture Payment then owed by the Company the sum of all Recapture Payments theretofore paid by the Company to the City. In addition, if the sum of all Recapture Payments made by the Company to the City under this Section 3.1(b) is equal to the Total City Payment, the Jobs Target Period shall immediately be deemed to cease and the Company shall owe no other funds or amounts to the City that, when added to all Recapture Payments theretofore paid by the Company, exceed the Total City Payment. Anything in this Agreement to the contrary notwithstanding, whether express or implied, under no circumstances shall the Company owe the City more than the Total City Payment pursuant to this Section 3.1. The Parties hereto further understand, acknowledge and agree that the Jobs Target Period shall not occur, and the Company shall not be obligated for any Recapture Payment, if the City does not make a City Payment under this Agreement.

(c) Any recapture payment due by the Company under this Section 3.2 shall be paid by the Company to the City within 30 days of being requested by the City.

(d) The right of the City to receive any Recapture Payment shall survive termination of this Agreement.



**ARTICLE IV**  
**EVENTS OF DEFAULT AND REMEDIES**

**Section 4.1    Events of Default by the City.**

(a) Any one or more of the following shall constitute an event of default by the City under this Agreement (a “City Event of Default”) (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) the dissolution or liquidation of the City, or the filing by the City of a voluntary petition in bankruptcy, or the City shall seek or consent to or acquiesce in the appointment of a receiver of all or substantially all of its property, or the adjudication of the City as a bankrupt, or any assignment by the City for the benefit of its creditors, or the entry by the City into an agreement of composition with its creditors, or if a petition or answer is filed by the City proposing the adjudication of the City as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(ii) failure by the City to perform or observe any of its agreements or covenants contained in Section 3.1 of this Agreement, which failure shall have continued for a period of 60 calendar days after written notice thereof from the Company to the City, unless (A) the Company shall agree in writing to an extension of such period prior to its expiration, or (B) during such 60-day period or any extension thereof, the City has commenced and is diligently pursuing appropriate corrective action.

(b) If a City Event of Default occurs, the Company shall have available to it the right and remedy of specific performance and mandamus, along with other rights and remedies provided by law; provided, however, the Company shall not be entitled to any punitive, incidental, consequential, or other damages, whether arising at law, in equity or otherwise.

**Section 4.2    Events of Default by the Company.**

Any one or more of the following shall constitute an event of default by the Company under this Agreement (a “Company Event of Default”) (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) at any time prior to the completion by the Company of its obligations and commitments hereunder, the Company is dissolved or liquidated, or the filing by the Company of a voluntary petition in bankruptcy, or the Company seeking or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the Company as a bankrupt, or any assignment by the Company for the benefit of its creditors, or the entry by the Company into an agreement of composition with its creditors, or if a petition or answer

is filed by the Company proposing the adjudication of the Company as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(ii) failure by the Company to perform or observe any of its agreements or covenants contained in Article II or Section 3.2 of this Agreement, which failure shall have continued for a period of 60 calendar days after written notice thereof from the City, unless (A) the City shall agree in writing to an extension of such period prior to its expiration, or (B) during such 60-day period or any extension thereof, the Company has commenced and is diligently pursuing appropriate corrective action. If a Company Event of Default occurs, the City shall have available to it the right of specific performance and mandamus, along with other rights and remedies provided by law; provided, however, the City shall not be entitled to any punitive, incidental, consequential, or other damages, whether arising at law, in equity or otherwise.

**Section 4.3 Remedies Subject to Applicable Law.** All rights, remedies and powers provided in this Article IV may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article IV are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

## **ARTICLE V**

### **MISCELLANEOUS PROVISIONS**

**Section 5.1 Severability; Enforceability.** If any term or provision hereof shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

**Section 5.2 Term.** Unless sooner terminated in accordance with the terms hereof, the term of this Agreement shall expire on the seventh (7<sup>th</sup>) anniversary of the date of this Agreement or, if earlier, such date following 120 days after the second anniversary of the Benchmark Date that the Company shall have completed and made all payments to the City required under Section 3.3 hereof (the “Term”); provided, the obligation of the Company to remit and pay any Recapture Payments to the City under this Agreement shall survive expiration of such Term.

**Section 5.3 Entire Agreement.** This Agreement contains the entire agreement of the Parties regarding the transactions described herein, and there are no representations, oral or written, relating to the transactions described herein which have not been incorporated herein. Any agreement hereafter made shall be ineffective to change, modify, or discharge this Agreement in whole or in part unless such agreement is in writing and is signed by each of the Parties hereto.

**Section 5.4    Counterparts; Assignment.**

(a)    This Agreement may be executed in two or more counterparts, each of which shall constitute but one and the same agreement.

(b)    This Agreement is not assignable by any Party hereto except upon the written consent of the other Parties hereto; provided, however, that the Company shall have the right at any time to assign all its rights and obligations in and to this Agreement or any part thereof to any financially solvent Affiliate of the Company that agrees to assume assigned obligations of the Company in and to this Agreement, the Facility, and all other operations within the Facility; and if so assigned, the Company shall continue to be responsible for the performance of the obligations of the assignee under this Agreement unless specifically excused therefrom by the City, to be expressed in writing and signed by an authorized representative of the City.

**Section 5.5    Binding Effect; Governing Law; Construction of Agreement.** This Agreement shall inure to the benefit of, and shall be binding upon, the Parties hereto and their respective successors and assigns. This Agreement shall be governed exclusively by, and construed and interpreted in accordance with, the laws of the State of Alabama without regard to Alabama's conflict of laws' provisions. The Parties agree that this Agreement has been negotiated and drafted at arm's-length and that no ambiguity or inconsistency in any term shall be construed or interpreted against any Party due to such Party being deemed the primary drafter of this Agreement or of the provision in question.

**Section 5.6    Notices.**

(a)    All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the Party or to an officer of the Party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed as follows:

(i)    If to the City:

The City of Huntsville  
308 Fountain Circle  
8<sup>th</sup> Floor  
Huntsville, AL 35801  
Attn: City Attorney

(ii)   If to the Company:

Infinity Labs LLC  
15W. 4<sup>th</sup> Street  
Dayton, Ohio 45402  
Phone: (937) 600-3156  
Email: contracts@i-labs.tech

With a copy to:  
Porter Wright Morris & Arthur LLP

Tami Hart Kirby, Esq.  
One S. Main Street, Suite 1600  
Dayton, Ohio 45402  
Phone: (937) 449-6721  
Email: tkirby@porterwright.com

(b) In addition, the parties hereto agree that Notices may be sent electronically to any electronic address provided by a party from time to time. Notices may be sent to a party's address as set forth above or to such other address as any party may give to the other for such purpose in accordance with this section.

(c) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of 3 days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier. Notice sent by electronic mail shall be deemed to be received upon the sender's receipt of an electronic confirmation of delivery.

**Section 5.7 Liabilities of the City.** Any provision hereof to the contrary notwithstanding, the Parties agree and acknowledge that the obligations and commitments of the City as set forth in this Agreement is limited by the limitations imposed by Alabama law.

**Section 5.8 Survival of Covenants.** The covenants in this Agreement shall not terminate until they have been fully performed or have expired by their terms.

**Section 5.9 No Waiver.** No consent or waiver, express or implied, by any Party hereto to any breach or default by any other Party in the performance by such other Party of its obligations and commitments hereunder shall be valid unless in writing, and no such consent or waiver to or of one breach or default shall constitute a consent or waiver to or of any other breach or default in the performance by such other Party of the same or any other obligations or commitments of such Party hereunder. Failure on the part of any Party to complain of any act or failure to act of any other Party or to declare such other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder. The granting of any consent or approval in any one instance by or on behalf of any Party hereto shall be construed to be a waiver or limit the need for such consent in any other or subsequent instance.

**Section 5.10 Venue.**

(a) Subject to the provisions of Sections 6.1, 6.2 and 6.3 of this Agreement, whenever any Party hereto shall default in the performance of any of its obligations or commitments under this Agreement, the other Party hereto may take whatever legal proceeding (including actions for specific performance to the extent provided by law) as shall be necessary or desirable to enforce any agreement or condition contained herein or any other obligation of the defaulting Party imposed by law. The Parties hereto recognize, and will not object to, an action for specific performance.

(b) Each of the Parties irrevocably submits to the jurisdiction of the Alabama state courts sitting in Madison County, Alabama (collectively, the "Courts") over any suit, action

or proceeding arising out of or relating to this Agreement or any transaction undertaken in connection therewith (an “Agreement Action”); and waives, to the fullest extent permitted by law, any objection or defense that such Party may now or hereafter have based on improper venue, lack of personal jurisdiction, inconvenience of forum or any similar matter in any Agreement Action brought in any of the Courts.

**Section 5.11 No Partnership or Joint Venture.** Nothing contained in this Agreement shall constitute or be construed to be a partnership or joint venture among the Parties and their respective permitted successors and assigns.

**Section 5.12 Headings.** The headings in the Sections in this Agreement are for convenience of reference only and shall not form a part hereof.

**Section 5.13 No Third-Party Beneficiaries.** This Agreement is intended only for the benefit of the signing Parties hereto, and neither this Agreement, nor any of the rights, interest, obligations or commitments hereunder, is intended for the benefit of any other person or third-party.

## **ARTICLE VI** **DEFINITIONS**

All initially capitalized terms not otherwise defined herein shall have the following meanings:

“Affiliate” of any specified entity shall mean any other entity directly or indirectly Controlling or Controlled by or under direct or indirect common with, or which directly or indirectly owns voting securities of an entity directly or indirectly Controlled by, such specified entity.

“Base Employment Figure” shall mean 54 (representing the product of 0.85 times the 63 Full-Time Employees earning the Minimum Average Hourly Pay as reported by the Company pursuant to Section 3.1(a)(iii)), if the Total City Payment equals \$150,000; or, if the Company did not certify employment pursuant to said Section 3.1(a)(iii), 37 (representing the product of 0.85 times the 44 Full-Time Employees earning the Minimum Average Hourly Pay as reported by the Company pursuant to Section 3.1(a)(ii)), if the Total City Payment equals \$100,000; or, if the Company did not certify employment pursuant to said Section 3.1(a)(iii) and said Section 3.1(a)(ii), 25 (representing the product of 0.85 times the 24 Full-Time Employees earning the Minimum Average Hourly Pay as reported by the Company pursuant to Section 3.1(a)(i)), if the Total City Payment equals \$50,000.

“Control” when used with respect to any entity means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “Controlling” and “Controlled” have meanings correlative to the foregoing.

“Fringe Benefits” shall mean all non-wage consideration paid or otherwise provided to Full-Time Employees, including, but not limited to, health insurance, retirement benefits, life insurance, workers’ compensation, unemployment compensation, and the employer portion of FICA taxes.

“Full-Time Employee” shall mean a person (expressly excluding unskilled temporary labor, construction workers and individuals employed by entities providing temporary workers): (a) who is being paid directly by the Company or an Affiliate of the Company and is employed at the Improved Facilities for not less than 36 hours per work week; (b) who has a primary residence in the State of Alabama or who is subject to Alabama State income tax withholdings, (c) who the Company or an Affiliate of the Company identifies as its employee to the U.S. Internal Revenue Service and its Alabama Department of Revenue tax returns or reports filed with the foregoing; (d) who is eligible to participate under such benefit plans as are generally applicable to employees holding positions of like kind and character within the Company or an Affiliate of the Company within the United States of America; and (e) who was not employed by the Company or any Affiliate within the City within three (3) years of becoming employed at the Improved Facilities.

“Minimum Average Hourly Pay” shall mean, for any group of Full-Time Employees reported or certified by the Company under this Agreement, an average hourly wage of \$52.89, exclusive of Fringe Benefits and overtime pay for such Full-Time Employees.

“Total City Payment” shall mean the total amount paid by the City to the Company pursuant to Section 3.1 hereof.

[SIGNATURE PAGES TO FOLLOW]

**IN WITNESS WHEREOF**, the City and the Company have each caused this Agreement to be duly executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and have caused this Agreement to be dated the date and year first above written.

**"CITY":**

**CITY OF HUNTSVILLE, ALABAMA**

By: \_\_\_\_\_  
Tommy Battle, Mayor

(SEAL)

ATTEST

By: \_\_\_\_\_  
Shaundrika Edwards

Its: \_\_\_\_\_  
City Clerk

**“COMPANY”:**

**INFINITY LABS, LLC, an Ohio Limited  
Liability Company**

By: Kenneth S. Edge  
Kenneth S. Edge

Its: Chief Executive Officer



**EXHIBIT A**  
**FORM OF REQUEST FOR CITY PAYMENT**

**REQUEST FOR CITY PAYMENT NO. [1/2/3]**

Date: \_\_\_\_\_, 20\_\_

Amount Requested:     \$50,000

Applicable Project Development Agreement Section: [Section 3.1(a)(i)]/[Section 3.1(a)(ii)]/ [Section 3.1(a)(iii)]

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Pursuant to the Project Development Agreement dated April 11, 2025 (the “Project Development Agreement”) between the City of Huntsville (the “City”) and Infinity Labs LLC., a limited liability company organized under the laws of the State of Ohio (the “Company”), the Company hereby represents, declares, and certifies as follows:

(a) The Company hereby requests payment of \$50,000 pursuant to [Section 3.1(a)(i)]/[Section 3.1(a)(ii)]/[Section 3.1(a)(iii)] of the Project Development Agreement.

(b) the Company hereby certifies that as of the last business day of each month of (i) \_\_\_\_\_, 20\_\_ (“Month 1”), (ii) \_\_\_\_\_, 20\_\_ (“Month 2”), and (iii) \_\_\_\_\_, 20\_\_ (“Month 3”), the Company had employed Full-Time Employees at the Facility, as follows:

	Month 1	Month 2	Month 3	Average
Full-Time Employees				
Average Hourly Wage Salary <sup>(1)</sup>				

(c) Attached hereto is all supporting information and materials as shall enable the City to confirm and independently verify the employment and wage levels so certified by the Company.

(d) The Company is not in default of its obligations under the Project Development Agreement.

(e) The following are the wire or payment instructions to use in remitting the Payment Amount:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(f) Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Project Development Agreement (including all exhibits thereto).

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<sup>\*</sup> Excludes Fringe Benefits and overtime pay.

IN WITNESS HEREOF, the undersigned has executed and delivered this certificate to the City this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**INFINITY LABS LLC, , an Ohio Limited Liability  
Company**

By: \_\_\_\_\_

Title: \_\_\_\_\_