INDUSTRIAL DEVELOPMENT AUTHORITY REGULAR MEETING AGENDA

4TH FLOOR CONFERENCE ROOM

August 8, 2023

10:30 AM

A. CALL TO ORDER

B. ROLL CALL

C. MEETING MINUTES

1. July 11, 2023 IDA Meeting Minutes

D. FINANCIAL REPORT

1. Industrial Development Authority Statement of Accounts 7-31-2023.

E. STAFF UPDATES

1. Sitework to be performed by Blair Construction at 120 Slayton Ave Danville Virginia

F. RESOLUTIONS

1. Sitework at 231 Main Street Danville, Virginia
2. Agreement to purchase real property from Danville Industrial Development Authority to Genesis North Union Properties LLC

3. Consulting Services between the Danville Industrial Authority and Cherry Bekaert, LLC.

4. Final Commitment Letter from American National Bank to the Danville Industrial Development Authority for 527 Bridge Street.

5. A Resolution to approve the refinancing of a loan for 527 Bridge Street with American National Bank and Trust.

6. Final Commitment Letter to Danville Industrial Development Authority from American National Bank to refinance 979 Lockett Drive

7. Resolution to Approve Refinance of 979 Lockett Drive with American National Bank.

G. CLOSED MEETING

As Permitted by Subsection (A)(3) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for discussion or consideration of the acquisition of real property or of the disposition of publicly held real property; and

As Permitted by Subsection (A)(5) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for discussion concerning a prospective business or industry related to economic development.

As Permitted by Subsection (A)(7) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for consultation with legal counsel concerning actual litigation and briefings by staff regarding specific legal matters requiring legal advice.

A. Motion to Convene in Closed Meeting
B. Motion to Reconvene in Open Meeting
C. Motion to Certify Closed Meeting

H. CONSIDER AND TAKE ACTION UPON ANY AND ALL BUSINESS THAT MAY BE LAWFULLY ENACTED

I. ADJOURN

INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA
MINUTES OF MEETING
JULY 11, 2023

PURSUANT TO A WRITTEN NOTICE, A COPY OF WHICH IS ATTACHED HERETO, A MEETING OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, WAS HELD IN THE FOURTH FLOOR CONFERENCE ROOM OF THE MUNICIPAL BUILDING ON TUESDAY, JULY 11, 2023, AT 10:30 AM.

THE FOLLOWING MEMBERS WERE PRESENT AND ABSENT:

PRESENT: T. NEAL MORRIS, CHAIRMAN
RUSSELL REYNOLDS, VICE CHAIRMAN
JOHN LARAMORE, SECRETARY/TREASURER
KRISTEN BARKER
DAVE CUMBO
PHILIP HALL

ABSENT: ROBERT WOODALL

ALSO PRESENT: W. CLARKE WHITFIELD, JR. CITY ATTORNEY
KIMBERLY GIBSON, LEGAL ASSISTANT/PARALEGAL
MICHAEL ADKINS, FINANCE DIRECTOR
CORRIE BOBE, ECONOMIC DEVELOPMENT
KELVIN PERRY, ECONOMIC DEVELOPMENT
STEVEN GOULD

T. NEAL MORRIS, CHAIRMAN, CALLED THE MEETING TO ORDER AT 10:30 AM.

ROLL CALL

ELECTIONS

NOMINATION FOR CHAIRMAN: MR. REYNOLDS MOVED TO NOMINATE NEAL MORRIS AS CHAIRMAN; SECONDED BY MR. HALL. VOTE AS FOLLOWS:

MR. MORRIS	-AYE
MR. REYNOLDS	-AYE
MR. LARAMORE	-AYE
MRS. BARKER	-AYE
MR. CUMBO	-AYE
MR. HALL	-AYE

NOMINATION FOR VICE-CHAIRMAN: MR. MORRIS MOVED TO NOMINATE RUSSELL REYNOLDS AS VICE-CHAIRMAN; SECONDED BY MR. LARAMORE. VOTE AS FOLLOWS:

MR. MORRIS	-AYE
MR. REYNOLDS	-AYE
MR. LARAMORE	-AYE
MRS. BARKER	-AYE
MR. CUMBO	-AYE
MR. HALL	-AYE

NOMINATION FOR SECRETARY/TREASURER: MR. REYNOLDS MOVED TO NOMINATE JOHN LARAMORE FOR SECRETARY/TREASURER; SECONDED BY MR. HALL. VOTE AS FOLLOWS:

MR. MORRIS	-AYE
MR. REYNOLDS	-AYE
MR. LARAMORE	-AYE
MRS. BARKER	-AYE
MR. CUMBO	-AYE
MR. HALL	-AYE

MINUTES

COPIES OF THE MINUTES OF THE JUNE 21, 2022 REGULAR CALLED MEETING AND THE JUNE 13, 2023 REGULAR MEETING WERE DISTRIBUTED TO THE MEMBERS WITH THEIR AGENDA PACKET. A MOTION WAS MADE BY MR. HALL TO APPROVE THE MINUTES. THE MOTION WAS SECONDED BY MR. REYNOLDS AND CARRIED WITH MEMBERS PRESENT VOTING AS FOLLOWS:

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE
MR LARAMORE	- AYE
MRS. BARKER	- AYE
MR. CUMBO	-AYE
MR. HALL	- AYE

FINANCES

MICHAEL ADKINS, THE DIRECTOR OF FINANCE, UPDATED THE MEMBERS ON THE FINANCIAL ACCOUNTS OF THE IDA.

COPIES OF THE CURRENT FINANCIAL STATEMENTS WERE DISTRIBUTED TO THE MEMBERS. A MOTION WAS MADE BY MR. REYNOLDS TO APPROVE THE FINANCIAL REPORT. THE MOTION WAS SECONDED BY MR. LARAMORE AND CARRIED WITH MEMBERS PRESENT VOTING AS FOLLOWS:

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE
MR LARAMORE	- AYE
MRS. BARKER	- AYE
MR. CUMBO	- AYE
MR. HALL	-AYE

UPDATES FROM STAFF

STAFF UPDATES FROM ECONOMIC DEVELOPMENT ON VARIOUS TOPICS.

RESOLUTIONS

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING A LEASE AGREEMENT BETWEEN THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA AND MIND BODY WELLNESS PILATES, LLC FOR THE PROPERTY IDENTIFIED AS 208 N. UNION STREET SUITE 202 DANVILLE VIRGINIA.

MOTION MADE BY MR. REYNOLDS; 2ND MRS. BARKER

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE
MR LARAMORE	- AYE
MRS. BARKER	- AYE
MR. CUMBO	- AYE
MR. HALL	-AYE

A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO APPROVE THE DECK REPAIRS AT 310 MAIN STREET, DANVILLE VIRGINIA IN AN AMOUNT NOT TO EXCEED $20,000.

MOTION MADE BY MRS. BARKER; 2ND MR. CUMBO

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE
MR LARAMORE	- AYE
MRS. BARKER	- AYE
MR. CUMBO	- AYE
MR. HALL	-AYE

A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO APPROVE REPAIRS TO 620 NORTH MAIN STREET, DANVILLE VIRGINIA IN AN AMOUNT NOT TO EXCEED $150,000.00.

MOTION MADE BY MR. CUMBO; 2ND MR. LARAMORE

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE
MR LARAMORE	- AYE
MRS. BARKER	- AYE
MR. CUMBO	- AYE
MR. HALL	-AYE

A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO EXECUTE AN AGREEMENT OF PURCHASE AND SALE BETWEEN THE INDUSTRIAL DEVELOPMENT AUTHORITY AND CROSS STAGE LLC FOR THE PROPERTY IDENTIFIED AS PARCELS NOS. 20598, 21954, AND 23112 AND COMMONLY KNOWN AS 200-204 NORTH UNION STREET.

MOTION MADE BY MR. REYNOLDS; 2ND MR. HALL

MR. MORRIS	-AYE
MR. REYNOLDS	-AYE
MR. LARAMORE	-AYE
MRS. BARKER	-AYE
MR. CUMBO	-AYE
MR. HALL	-AYE

A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO EXECUTE THE LOAN RENEWAL DOCUMENTS WITH AMERICAN NATIONAL BANK IN AN AMOUNT NOT TO EXCEED $995,000 FOR THE RENEWAL LOAN AGAINST REAL PROPERTY LOCATED AT 1000 LOCKETT DRIVE.

MOTION MADE BY MR. REYNOLDS; 2ND MR. HALL

MR. MORRIS	-AYE
MR. REYNOLDS	-AYE
MR. LARAMORE	-AYE
MRS. BARKER	-AYE
MR. CUMBO	-AYE
MR. HALL	-AYE

A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO EXECUTE THE LOAN RENEWAL DOCUMENTS WITH AMERICAN NATIONAL BANK IN AN AMOUNT NOT TO EXCEED $600,000 FOR THE RENEWAL LOAN AGAINST REAL PROPERTY LOCATED AT 527 BRIDGE STREET, DANVILLE, VIRGINIA.

MOTION MADE BY MR. LARAMORE; 2ND MR. CUMBO

MR. MORRIS	-AYE
MR. REYNOLDS	-AYE
MR. LARAMORE	-AYE
MRS. BARKER	-AYE
MR. CUMBO	-AYE
MR. HALL	-AYE

A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO EXECUTE THE ATTACHED LOAN RENEWAL COMMITMENT LETTER WITH VIRGINIA COMMUNITY CAPITAL IN AN AMOUNT NOT TO EXCEED $1,081,766.00 FOR THE RENEWAL OF LOAN AGAINST REAL PROPERTY LOCATED AT 500 CANE CREEK PARKWAY.

MOTION MADE BY MR. REYNOLDS; 2ND MR. HALL

MR. MORRIS	-AYE
MR. REYNOLDS	-AYE
MR. LARAMORE	-AYE
MRS. BARKER	-AYE
MR. CUMBO	-AYE
MR. HALL	-AYE

A VERBAL MOTION WAS MADE BY MR. LARAMORE AND SECONDED BY MR. CUMBO TO ALLOW CAESARS VIRGINIA PUT DOWN A LAYER OF GRAVEL ON THE GRASS BALLFIELD ON BISHOP AVENUE FOR A PARKING LOT FOR CASINO VISITORS AND EMPLOYEES.

MOTION MADE BY MR. LARAMORE; 2ND MR. CUMBO

MR. MORRIS	-AYE
MR. REYNOLDS	-AYE
MR. LARAMORE	-AYE
MRS. BARKER	-AYE
MR. CUMBO	-AYE
MR. HALL	-AYE

A VERBAL MOTION WAS MADE BY MR. REYNOLDS AND SECONDED BY MR. HALL TO APPROVE THE SCHOOLFIELD VILLAGE PLAN AS VERBALLY PRESENTED BY CORRIE BOBE.

MOTION MADE BY MR. REYNOLDS; 2ND MR. HALL

MR. MORRIS	-AYE
MR. REYNOLDS	-AYE
MR. LARAMORE	-AYE
MRS. BARKER	-AYE
MR. CUMBO	-AYE
MR. HALL	-AYE

MR. REYNOLDS MOVED THE MEETING BE RECESSED AND THE BOARD IMMEDIATELY RECONVENED IN EXECUTIVE CLOSED MEETING FOR THE PURPOSES:

1. DISCUSSION CONCERNING A PROSPECTIVE BUSINESS OR INDUSTRY OR THE_EXPANSION OF AN EXISTING BUSINESS OR INDUSTRY WHERE NO PREVIOUS ANNOUNCEMENT HAS BEEN MADE AS PERMITTED BY SUBSECTION (A)(5) OF SECTION 2.2-3711 OF THE CODE OF VIRGINIA, 1950, AS AMENDED.

2. DISCUSSION OR CONSIDERATION OF THE ACQUISITION/DISPOSITION OF REAL PROPERTY FOR A PUBLIC PURPOSE WHERE DISCUSSION IN AN OPEN MEETING WOULD ADVERSELY IMPACT THE BARGAINING POSITION OF THE AUTHORITY AS PERMITTED BY SUBSECTION (A)(3) OF SECTION 2.2-3711 OF THE CODE OF VIRGINIA, 1950, AS AMENDED.

MOTION WAS MADE BY MR. REYNOLDS; 2ND BY MR. HALL

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE
MR LARAMORE	- AYE
MRS. BARKER	- AYE
MR. CUMBO	- AYE
MR. HALL	

MR. REYNOLDS MOVED THE MEETING IMMEDIATELY RECONVENE INTO AN OPEN MEETING. THE MOTION WAS SECONDED BY MR. LARAMORE AND CARRIED WITH THE MEMBERS PRESENT VOTING AS FOLLOWS:

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE
MR LARAMORE	- AYE
MRS. BARKER	- AYE

MR. CUMBO	- AYE
MR. HALL	- AYE

UPON RECONVENING, MR. REYNOLDS MOVED THAT THE BOARD ADOPT A RESOLUTION CERTIFYING THAT TO THE BEST OF EACH MEMBER'S KNOWLEDGE THAT:

1. ONLY PUBLIC BUSINESS MATTERS LAWFULLY EXEMPTED FROM OPEN MEETING REQUIREMENTS UNDER SECTION 2.2-3711; AND

2. ONLY SUCH PUBLIC BUSINESS MATTERS AS WERE IDENTIFIED IN THE MOTION BY WHICH THE CLOSED MEETING WAS CONVENED WERE HEARD, DISCUSSED, OR CONSIDERED IN THE CLOSED MEETING.

MOTION WAS MADE BY MR. REYNOLDS; 2ND BY MR. HALL

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE
MR LARAMORE	- AYE
MRS. BARKER	- AYE
MR. CUMBO	- AYE
MR. HALL	

ADJOURN

MR LARAMORE MOVED THE MEETING BE ADJOURNED, MR. REYNOLDS SECONDED THE MOTION, AND THIS WAS AGREED UPON BY ALL AT 11:30 AM.

JOHN LARAMORE
SECRETARY

T. NEAL MORRIS
CHAIRMAN

Industrial Development Authority
Statement of Accounts
As of July 31, 2023

Regular Checking		$	521,110.92
USDA Loan Account		$	58,797.31
Community Capital Bank (500 CC)		$	28,920.26
City Funded Loan Account		$	833,119.95
North Union Properties/Master Tenant		$	18,067.75
Reserve Account		$	3,120,472.13
Reserve Account Details			
Hold for FY23 Debt Svc	*232,332.91*		
Hold for Shell Building	*192,735.42*		
Hold for Enterprise Zone	*430,905.00*		
Hold for Dan River Falls	*(103,038.78)*	grant funds to replenish ($500,000)	
Hold for FY22 Edev Incenti	*1,962,612.00*		
Hold for FY23 Edev Incenti	*367,925.58*		
Hold for 217 N Union	*37,000.00*		
Available	*(0.00)*		
	3,120,472.13		

City Funded Loans:

Beginning Balance July 1, 2023	$	796,727.12
The Bee - Monthly Payment (Paid July & Aug)		36,358.82
Interest /Bank Fees		34.01
Ending Balance July 31, 2023	$	833,119.95

Industrial Development Authority
Statement of Account - Regular Checking
For the month ended July 31, 2023

Beginning Balance at July 1, 2023		$ 489,364.26
RECEIPTS:		
Rent:		89,199.06
Utility/Insurance Reimbursement:		
DR Foundation	1,348.39	
Averett	-	1,348.39
Transfer In from Reserve Acct/City		313,704.01
Transfer to VA Community Capital		(30,000.00)
Interest Income/Wire Fees		(37.50)
DISBURSEMENTS:		
AMNB Loan - Lockett Drive	(10,197.02)	
AMNB - 500 Stinson Drive #1	(4,887.77)	
AMNB - 500 Stinson Drive #2	(5,717.03)	
AMNB - 512 Bridge Street	(16,467.81)	
AMNB Loan - Old Belt One	(5,872.86)	
AMNB - 1350 Barker Road	(7,306.55)	
VSBFA - 500 Cane Creek	(2,993.17)	
First National - Gaither Rd Prop	(3,136.84)	
Movement Bank - Monument	(2,651.24)	
US Bank Bond Debt Service	(13,666.67)	
Blair Construction - Shell Bldg	(211,585.24)	
Stantec - Dan River Falls	(1,068.75)	
Site Collaborative - DR Falls	(6,405.00)	
Luck's Lawncare Monument Lynn	(2,965.00)	
Chesapeake Controls	(2,185.59)	
WRT - Schoolfield	(2,380.00)	
Whitman Engineer - Shell Bldg	(702.43)	
Utility Bills/Elevator Maint	(26,888.63)	
Insurance	(15,389.70)	(342,467.30)
PASS THROUGHS:		
From City for Incentives		278,970.21
MEP		(3,970.21)
Richmond Cedar Works		(275,000.00)
Ending Balance at July 31, 2023		**$ 521,110.92**

125 N Union	250.00
Averett	22,780.00
Barry Smith	260.00
Belk - Pd 6/30	-
City - Gang Prev.	1,500.00
DR Foundation	5,610.00
Earnhardt Plumbing	2,556.55
GSO	2,950.00
Launch Place	6,000.00
Link's Café	3,000.00
Lizzy Lou	-
Mind Body Wellness	1,400.00
Morrisette Paper	5,750.00
Overfinch	12,587.80
River District Assoc	3,020.00
Riverside Running	2,812.48
Robert Stephens	508.00
Site Collaborative	800.00
Sth VA Legal	1,575.00
Vintages	1,000.00
Walraven	14,839.23
	89,199.06

Industrial Development Authority
Statement of Account
USDA Loan Funds

For the month ended July 31, 2023

Beginning Balance at July 1, 2023			$ 58,224.73
RECEIPTS:			
	Dry Fork Fruit Dist.	-	
Received March 30	Donnachaidh	570.09	
	River City Escapes	-	
	Interest	2.49	
			572.58
DISBURSEMENTS:		-	
			-
Ending Balance at July 31, 2023			**$ 58,797.31**

Reconciliation to original USDA grant of $99,000

ORIGINAL USDA FUNDS			$ 99,000.00
LESS OUTSTANDING LOANS:			
	River City Escapes	12,043.59	
	Donnachaidh	17,580.30	
	Dry Fork Fruit Dist.	11,025.02	(40,648.91)
INTEREST EARNED			19,853.92
DEFAULTED LOANS			(19,457.70)
PENALTIES EARNED			50.00
BALANCE IN ACCOUNT			**$ 58,797.31**

Industrial Development Authority of Danville
A/R Aging Summary
As of July 31, 2023

	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL
127 North Union	0.00	315.00	315.00	0.00	5,670.00	6,300.00
600 Craghead LLC - Parking	4,704.00	0.00	0.00	0.00	0.00	4,704.00
A La Carte	0.00	0.00	0.00	0.00	533.00	533.00
Averett University	0.00	-11,390.00	9,165.81	0.00	0.00	-2,224.19
Caesars Virginia	0.00	0.00	0.00	20.00	0.00	20.00
City of Danville IT	0.00	17,040.00	0.00	0.00	0.00	17,040.00
J&W Associated LLC dba Links Cafe	0.00	3,000.00	3,000.00	0.00	300.00	6,300.00
Lizzy Lou Boutique	0.00	800.00	0.00	0.00	0.00	800.00
Lou's Antiques Co	0.00	0.00	0.00	0.00	26,000.00	26,000.00
Mind Body Wellness Pilates LLC	-1,400.00	0.00	0.00	0.00	0.00	-1,400.00
River District Association	-1,510.00	0.00	0.00	0.00	0.00	-1,510.00
Robert Stephens	0.00	250.00	92.00	0.00	0.00	342.00
Southern Virginia Legal PLLC	0.00	-1,575.00	0.00	0.00	0.00	-1,575.00
The Launch Place	-3,000.00	0.00	0.00	0.00	0.00	-3,000.00
Unison Tube, LLC	0.00	0.00	0.00	0.00	69,032.50	69,032.50
TOTAL	-1,206.00	8,440.00	12,572.81	20.00	101,535.50	121,362.31

Industrial Development Authority

STAFF REPORT

DATE: August 8, 2023

TO: Industrial Development Authority

FROM: Kelvin Perry, Assistant Director of Economic Development and Tourism

RE: Sitework to be performed by Blair Construction at 120 Slayton Ave Danville Virginia

Request approval to perform additional sitework at 120 Slayton Ave, Danville, Virginia to remove 231 yards of rock for an amount not to exceed $14,000.00

ATTACHMENTS

1. Blair Construction 120 Slayton Ave Danville Va

August 1, 2023

Ms. Corrie Bobe, Director
Economic Development & Tourism
City of Danville
427 Patton Street, Suite 203
Danville, Va. 24543

Re: Proposal for Unforeseen Rock
30K Shell Building
120 Slayton Ave., Danville Va.

Ms. Bobe,

This change proposal of the removal of unforeseen rock while installing the storm water line at the rear of the building. We have estimated the extent of the rock to be approximately 231 cubic yards. However, the actual number will not be available until the rock is removed. Below is a breakdown of the added cost.

231 (estimated) CY's x $275/CY	$63,525.00
Blair OH&P (15%)	$9,528.75
Total	$73,053.75

The proposal excludes overtime, weekend, or holidays.

Once we can establish the actual amount of rock being removed, we can provide a final dollar amount. Please let us know if you need any further information to aid in getting this proposal added to our contract.

Respectfully,

Tommy R. Mills Jr.

Tommy R. Mills, Jr.
Project Manager

23020 US Hwy 29 S, Gretna, VA 24557
P: 434.656.6243 F: 434.656.8900
www.blairbuildsbetter.com

Industrial Development Authority

STAFF REPORT

DATE: August 8, 2023

TO: Industrial Development Authority

FROM: Kelvin Perry, Assistant Director of Economic Development and Tourism

RE: Sitework at 231 Main Street Danville, Virginia

Request approval for additional sitework at 231 Main Street, Danville,Virginia for an amount not to exceed $25,000.

ATTACHMENTS

1. 751 - 2023-08-08 RES for additional expenditures-231 Main Street Danville Virginia
2. 231 Main St site restoration additional work

PRESENTED: ______August 8, 2023______

ADOPTED: ________August 8, 2023______

RESOLUTION NO. 2023-____.____

A RESOLUTION APPROVING AND AUTHORIZING THE ADDITIONAL FUNDING IN AN AMOUNT NOT TO EXCEED $25,000 FOR SITEWORK EXPENDITURES AT 231 MAIN STREET, DANVILLE, VIRGINIA.

NOW THEREFORE, BE IT RESOLVED that the Industrial Development Authority of Danville, Virginia does hereby approve and authorize the additional funding for sitework improvements at 231 Main Street in an amount not to exceed Twenty-Five Thousand and 00/100 ($25,000.00); and

BE IT FURTHER RESOLVED that the Danville Industrial Development Authority of Danville, Virginia does hereby authorize its Chairman, or in his absence any officer, to execute any and all documents necessary to complete the above referenced transaction.

Approved:

____
Chairman

Attest:

____
Secretary

Approved as to
Form and Legal Sufficiency:

____
City Attorney

Invoice

lewis nursery inc.

P.O. Box 90
352 Leaksville Jct. Rd
Cascade, VA 24069

Date	Invoice#
7/27/2023	10324

Bill To
City of Danville PO Box 3300 Danville, VA 24541

P.O. No.	Terms	Project
	Net 30	

Description	Qty	Rate	Amount
231 Main Street-Old Lou's Antiques			
2 days compacting backfill along wall footing		4,000.00	4,000.00
10 loads of top soil	10	500.00	5,000.00
Providing and installing yard drain in lawn area and piping thru retaining wall		1,200.00	1,200.00
3 days labor repairing and installing pavers		5,400.00	5,400.00
1 cube of 6 x 9 cobbles		900.00	900.00
1 cube of brick paver		885.00	885.00
1 pallet of mortar		672.00	672.00

Subtotal	$18,057.00
Sales Tax (5.3%)	$0.00
Total	$18,057.00
Payments/Credits	$0.00
Balance Due	$18,057.00

Phone #	Fax #	E-mail
434-685-7383		melissa@lewisnurseryinc.com

Major
Construction Inc.

1011 Richie Lane
South Boston, VA 24592
Phone: (434) 572-0411
Owner: Ben Major

Invoice #1384

BILL TO:

DATE:06-21-23

City of Danville

Job:Wall at Memorial Dr.

QUANITY	DESCRIPTION / MATERIALS	PRICE /HR	EXTENDED PRICE
1	Form, Place and Finish 20' concrete wall at empty lot next to rear of storm drain	$3,000.00	$3,000.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
			$0.00
	TOTAL DUE UPON RECEIPT		$3,000.00

THANK YOU WE APPERCIATE YOUR BUSINESS
Pay Terms Net 14 Days

Signature:_________Ben Major__________________

CBM 6/23/23

Department PW-Eng	Date Received 7-5-2023	
Purchase Order No.	P.O. 41466 Item #10	
Dept. Approval By: BD	Date Approved 7-5-2023	
GL Key	Object	
PL Key	PL Object	WO
Due Date	Discount	

Industrial Development Authority

STAFF REPORT

DATE: August 8, 2023

TO: Industrial Development Authority

FROM: Kelvin Perry, Assistant Director of Economic Development and Tourism

RE: Agreement to purchase real property from Danville Industrial Development Authority to Genesis North Union Properties LLC

Request to execute an agreement to purchase and sale agreement between Danville Industrial Development Authority and Genesis North Union Properties, LLC for the amount of $129,000. Real property located at 200-204 N. Union Street, LLC.

ATTACHMENTS

1. 749 IDA RES. 2023-08-08 Resolution Execute Purchase Agreement with Genesis North Union Properties
2. IDA Attachment 1 for N Union Street Purchase Agreement by Genesis North Union Properties LLC

PRESENTED: ______August 8, 2023______

ADOPTED: ________August 8, 2023______

RESOLUTION NO. 2023-____.____

A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO EXECUTE AN AGREEMENT OF PURCHASE AND SALE BETWEEN THE INDUSTRIAL DEVELOPMENT AUTHORITY AND GENESIS NORTH UNION PROPERTIES, LLC FOR THE PROPERTY IDENTIFIED AS PARCELS NOS. 20598, 21954, AND 23112 AND COMMONLY KNOWN AS 200-204 NORTH UNION STREET.

WHEREAS, on July 11, 2023, the Industrial Development Authority of Danville, Virginia ("IDA") passed Resolution No. 2023-07-05 authorizing the sale of Parcels Nos. 20598, 21954, and 23112, commonly known as 202-204 North Union Street to Cross Stage, LLC; and

WHEREAS, the original party Cross Stage, LLC has organized a new LLC identified as Genesis North Union Properties, LLC to carry out the acquisition; and

WHEREAS, to ensure the carrying out of Resolution No. 2023-07-05, the parties need to substitute the new LLC in as the purchasing party.

NOW THEREFORE, BE IT RESOLVED by the Industrial Development Authority of Danville, Virginia that the Chairman, or in his absence any Officer, be, and hereby is, approved and authorized to execute a new Agreement of Purchase and Sale, in an amount not to exceed One Hundred Twenty-nine Thousand and 00/100 Dollars ($129,000.00), substantially in the form attached hereto, with Genesis North Union Properties, LLC, a Virginia Limited Liability Corporation (SC ID S11571309); and

BE IT FURTHER RESOLVED that the Chairman, or in his absence any Officer, be, and hereby is, authorized to execute any and all documents necessary for this Agreement of Purchase and Sale and any and all other documents as needed to complete this transaction.

Approved:

____
Chairman

Attest:

____
Secretary

Approved as to
Form and Legal Sufficiency:

____
City Attorney

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE ("Agreement") is made and entered into this ____ day of _____________ 2023, between Genesis North Union Properties, LLC, a Virginia limited liability company, whose address 710 Roslyn Place Lynchburg VA 24504 (hereinafter called "Purchaser"), and the Industrial Development Authority of Danville, Virginia whose address is City of Danville, Industrial Development Authority, C/O City Attorney's Office, P. O. Box 3300, Danville, VA 24543 (hereinafter "Seller").

W I T N E S S E T H:

WHEREAS, Seller is the owner of that certain parcel of real property identified as 200-204 N. Union Street Danville, Virginia 24541 (Parcels # 20598, 21954, and 23112) along with all improvements, in the City of Danville, Virginia, more particularly described on Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, Seller desires to sell this real property to Purchaser, (and shall hereinafter be referred to collectively as the "Property") and Purchaser desires to purchase said Property from Seller, subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, do hereby agree as follows:

1. Purchase and Sale. Subject to the terms and conditions hereinafter set forth, Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller the Property, together with (a) all rights, easements and privileges, appurtenances belonging and appertaining thereto, including, without limitation, all easements, rights of way or other interests in, on or under any lands, highways, alleys, streets, or rights of way abutting or adjoining the Property (b) all buildings and other improvements thereon, and (c) and any fixtures attached to the Property (collectively referred to as "Premises").

2. Purchase Price.

(a) The purchase price ("Purchase Price") to be paid by Purchaser on behalf of Seller for the Property shall be One Hundred Twenty-nine Thousand 00/100 Dollars ($129,000.00), such Purchase Price to be paid to the Industrial Development Authority City of Danville, Virginia, a political subdivision municipal corporation of the Commonwealth of Virginia. It is the understanding of both parties that the entirety of the Purchase Price shall be payable to the Industrial Development Authority City of Danville, Virginia,

(b) At Closing, the Purchaser shall pay to the Industrial Development Authority City of Danville, Virginia, in United States Currency by cash, cashier's check or wire transfer, an amount equal to the Purchase Price; One Hundred Twenty-nine Thousand Dollars and 00/100 ($129,000.00)

3. Reserved.

4. Representations and Warranties of Seller. Seller, to induce Purchaser to enter into this Agreement and to complete Closing, makes the following representations and warranties to Purchaser, which representations and warranties are true and correct as of the Effective Date, and shall be true and correct at and as of the Closing Date in all respects as though such representations and warranties were made both at and as of the date of this Agreement, and at and as of the Closing Date:

(a) To the best of Seller's knowledge and belief, there is no action, suit or proceeding pending or, to the knowledge of Seller, threatened against or affecting the Property, other than those by Purchaser or the City of Danville, Virginia.

(b) Seller has not received any written notice of any condemnation proceeding or other proceedings in the nature of eminent domain ("Taking") which is currently pending in connection with the Property, and to Seller's knowledge no Taking has been threatened.

(c) Seller is and, on the closing, date shall have full power and authority to enter into and perform this Agreement and all documents, instruments and contracts entered into or to be entered into by it pursuant to this Agreement and to carry out the transactions contemplated hereby. This Agreement is, and all documents to be executed by Seller and delivered to Purchaser at the Closing will be on the Closing Date, duly authorized, executed and delivered by Seller and all consents and approvals of third parties have been obtained. This Agreement is, and all documents to be executed by Seller and delivered to Purchaser at the Closing will be the legal, valid and binding obligations of Seller, enforceable in accordance with their respective terms and will not violate any provisions of any agreement, judicial order or any other thing to which Seller is a party or to or by which Seller or the Property is subject or bound.

(d) To the best of Seller's knowledge and belief, the Property is not subject to any roll back tax or any similar tax related to the discontinuance of any use to which the Property has been put.

(e) To the best of Seller's knowledge and belief, no tax appeals are currently pending with respect to the Property.

(f) Seller has not entered any presently effective contract regarding the sale, conveyance, transfer or disposition of the Property (except for this Agreement). Seller has not granted to anyone, and no one possesses any option to purchase or right of first refusal to purchase the Property. Seller has not entered into any occupancy agreement, lease, or the like with respect to, and no one has any right to use or occupy, the Property except for the lease to Purchaser.

5. Representations and Warranties of Seller. Purchaser makes the following representations and warranties to Seller, which representations and warranties are true and correct as of the Effective Date, and shall be true and correct at and as of the Closing Date in all respects as though such representations and warranties were made both at and as of the Effective Date, and at and as of the Closing Date:

(a) Purchaser is a political subdivision of the Commonwealth of Virginia, Active and in Good Standing and authorized to transact business in the Commonwealth of Virginia; Purchaser has full power and authority, and is duly authorized, to execute, enter into, deliver and perform this Agreement and its obligations hereunder.

(b) Purchaser is and, on the closing, date shall have full power and authority to enter into and perform this Agreement and all documents, instruments and contracts entered into or to be entered into by it pursuant to this Agreement and to carry out the transactions contemplated hereby. This Agreement is, and all documents to be executed by Purchaser and delivered to Seller at the Closing will be on the Closing Date, duly authorized, executed and delivered by Purchaser and all consents and approvals of third parties have been obtained. This Agreement is, and all documents to be executed by Purchaser and delivered to Seller at the Closing will be the legal, valid and binding obligations of Purchaser, enforceable in accordance with their respective terms and will not violate any provisions of any agreement, judicial order or any other thing to which Purchaser is a party to or by which Purchaser or the Property is subject or bound.

(c) The person or persons executing on behalf of Purchaser has or shall have the authority to do so and upon execution by such party(s), the Agreement is valid, binding, and enforceable obligation of the Purchaser.

6. Inspections. (a) Seller and Purchaser hereby acknowledge that as of the Effective Date, Purchaser has not yet had an opportunity to fully review and evaluate this transaction. If on or before 5:00 p.m. (Eastern Standard Time) on a date which is sixty (60) days from the Date of this agreement ("Inspection Completion Date"), Purchaser determines, in its sole and absolute discretion, that Purchaser does not desire to purchase the Property, then Purchaser shall have the right to give written notice to Seller electing to terminate this Agreement, provided such notice is delivered to Seller prior to 5:00 p.m. (Eastern Standard Time) on the Inspection Completion Date. In the event such notice of termination is delivered on or before 5:00 p.m. (Eastern Standard Time) on the Inspection Completion Date, then the parties shall be released from all further obligations each to the other under this Agreement. In the event that the Purchaser does not terminate this Agreement as set forth in this Section 6, then Purchaser's right to terminate this Agreement shall be deemed waived by Purchaser.

(b) Upon reasonable prior notice to Seller, Purchaser, its agents, employees, and representatives shall have access to the Property at all reasonable times to inspect the Property and to conduct reasonable tests thereon including, but not limited to, soil and groundwater borings and hazardous waste studies, and to make such other examinations with respect thereto as Purchaser, its counsel, licensed engineers, surveyors or other representative(s) may deem reasonably necessary. Seller reserves the right to be present or have its agent or representative present during Purchaser's investigations of the Property. Any tests, examinations or inspections of the Property by Purchaser and all costs and expenses in connection with Purchaser's inspection of the Property shall be at the sole cost of Purchaser and shall be performed in a manner not to unreasonably interfere with the Seller's ownership of the Property. Further, Purchaser shall be responsible for any and all damage caused by such inspections, examinations, testing and disposal of all waste produced at the Property as a result of such investigations, and shall sign, as generator, all forms necessary for such disposal. Purchaser shall immediately remove any lien of any type which attaches to the Property by virtue of any of such inspections, examinations or tests. Upon completion of any such inspection, examination or test, Purchaser shall restore any damage to the Property caused by such inspection, examination or test.

(c) The provisions of this Section shall survive any termination of this Agreement.

7. Covenants by Seller. Between the Effective Date and the Closing, Seller agrees that:

(a) Seller will maintain the Property in the same condition as it is on the date of this Agreement (reasonable wear and tear excepted);

(b) Seller will not, by reason of any action or omission of Seller, cause or permit any representation or warranty to become not true, incorrect or inaccurate.

(c) Seller shall perform any and all material obligations with respect to the Property under all easements, covenants, restrictions and contracts of record;

(d) Seller will promptly give notice to Purchaser of every threatened or actual litigation whether or not covered by insurance against or relating to the Property (including, without limitation, the sale thereof to Purchaser) or any portion thereof between the date of this Agreement and the Closing;

(e) Seller will not, without the prior written consent of Purchaser, apply for, consent to or process any applications for zoning, re-zoning, variances, site plan approvals, subdivision approvals or development with respect to the Property or any portion thereof.

(f) Seller will not, without the prior written consent of Purchaser, grant any rights or other privileges in or with respect to the Property or any portion thereof or grant, or consent to or waive the right to object to, any easements, covenants or restrictions affecting all or any portion of the Property;

(g) Seller will not enter into or modify any mortgages, operating agreements, ground leases, space leases or other agreements or encumbrances with respect to or affecting the Property or any portion thereof; and

(h) Seller will promptly notify Purchaser if it discovers, determines or is notified that any warranty or representation made by Seller hereunder is not (or is no longer) true.

8. Seller's Defaults; Purchaser's Remedies. In the event that Seller shall be in material default hereunder for any reason other than Purchaser's default, Purchaser may deliver a written notice to Seller stating with particularity the alleged default of Seller, the action required by Seller to cure such default, and Purchaser's intent to exercise its remedies provided below if the default is not cured. Seller shall have ten (10) business days after receipt of such notice to cure the alleged default to Purchaser's reasonable satisfaction (and the Closing Date shall be delayed, if necessary, until the end of such ten (10) business day period). In the event such default is not cured within such ten (10) business day period, then Purchaser may elect, as its sole and exclusive remedy, for such default, to terminate this Agreement by written notice to Purchaser and the Closing Agent. Purchaser hereby expressly waives its rights to seek damages in the event of Seller's default hereunder.

9. Purchaser's Default; Seller's Remedies. In the event that Purchaser shall be in default hereunder for any reason other than Seller's default, Seller may deliver a written notice to Purchaser stating with particularity the alleged default of Purchaser, the action required by Purchaser to cure such default and Seller's intent to terminate this Agreement if the default is not cured. Purchaser shall have ten (10) business days after receipt of such notice to cure the alleged default to Seller's reasonable satisfaction (and the Closing Date shall be delayed, if necessary, until the end of such ten (10) business day period). In the event such default is not cured within such ten (10) business day period, then Seller may, as Seller's sole and exclusive remedy for such default, terminate this Agreement by written notice to Purchaser and the Closing Agent. Seller hereby expressly waives its rights to seek damages in the event of Purchaser's default hereunder.

10. Reversion of Title. Purchaser shall forfeit any and all rights and ownership interests in the Property by way of reversion of title to Seller, placed in the deed, free and clear of all liens and encumbrances created after the conveyance of the Property to Purchaser if the Purchaser has not obtained a building permit for and initiated substantial construction on the renovation of the Property, in the sole discretion of the Seller, within fourteen (14) months from the date of Closing. Seller shall reacquire the property at the original price of One Hundred and Twenty-nine Thousand 00/100 Dollars ($129,000.00).

11. Closing Costs. (a) Purchaser shall be responsible for the costs of preparing the Deed (as hereinafter defined). Purchaser is not required to pay Grantor's Tax pursuant to Virginia Code Section 58.1-811(C)(4).

(b) Each party shall be responsible for payment of its own legal fees.

12. Closing. The "Closing" shall be held no later than thirty (30) days from the Inspection Completion Date. Notwithstanding the foregoing provisions of this Section 12, Purchaser shall have the right to adjourn the Initial Scheduled Closing Date for any reason one (1) time (for not more than thirty (30) days) to a date specified by Purchaser (the "Purchaser Adjourned Closing Date") by delivering notice to Seller and closing agent two (2) business days before the Initial Scheduled Closing Date. As used herein, the term "Closing Date" shall mean the Initial Scheduled Closing Date and the Purchaser Adjourned Closing Date, as applicable. It is expressly agreed by Seller and Purchaser that time is of the essence with respect to the parties' obligations to close this transaction on the Closing Date. For the avoidance of doubt, Seller and Purchaser acknowledge that any adjournment of the Closing Date pursuant to any right of adjournment granted hereunder, then time shall be of the essence with respect to Seller's and Purchaser's obligation to close this transaction on such adjourned Closing Date.

(a) At Closing, Seller shall cause to be executed and delivered to Purchaser the following documents with respect to the Property being conveyed:

(i) A general warranty deed ("Deed") subject only to the Acceptable Exceptions;

(ii) A non-foreign affidavit in a form reasonably acceptable to Purchaser;

(iii) Such other documents that the Closing Agent may reasonably require in connection with the purchase, including but not limited to, such affidavits required for deletion of the parties in possession and mechanics' lien exceptions appearing on an owner's title insurance policy; and

(c) At Closing, Seller and Purchaser shall each execute counterpart closing statements in a customary form, and such other documents required by the Closing Agent that are reasonably necessary to consummate Closing.

(d) At Closing, both parties shall pay their respective costs by wire transfer, or by cashier's check drawn on a bank reasonably acceptable to Closing Agent.

13. Brokers. Each party warrants and represents to the other that no real estate broker or agent has been involved in negotiations leading to the execution of this Agreement and that no other commission is owed to any other broker or agent as a result of the action of such party. Each party agrees to hold the other harmless from any loss, cost or charge (including reasonable attorneys' fees), arising from the assertion by any other broker or agent that any fee or commission is owed because of the acts or agreement of such party. The provisions of this Section shall survive the Closing and any cancellation or earlier termination of this Agreement.

14. Assignability. Neither Purchaser nor Seller shall have the right to assign this Agreement and its rights hereunder to any entity or person without the other party's prior written consent, which consent shall not be unreasonably withheld.

15. Notices. Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed given if delivered by hand, sent by recognized overnight courier (such as Federal Express), transmitted via facsimile transmission or mailed by certified or registered mail return receipt requested, in a postage pre-paid envelope, and addressed as follows:

If to Seller:
Industrial Development Authority of Danville, Virginia
C/O City Attorney's Office
P.O. Box 3300
Danville, VA 24543

With a copy to:
City Attorney's Office
P.O. Box 3300
Danville, VA 24543
If to Purchaser
Genesis North Union Properties LLC (SCC entity ID # S11571309):
710 Roslyn Place
Lynchburg, VA 24504

Notices personally delivered or sent by overnight courier shall be deemed given on the date of receipt, notices sent via electronic mail or facsimile transmission shall be deemed given upon transmission and notices sent via certified mail in accordance with the foregoing shall be deemed given when deposited in the U.S. Mails.

16. Eminent Domain. If, prior to Closing, the Property or any material portion thereof is taken by eminent domain, Seller shall promptly notify Purchaser and Purchaser shall have the option of either: (i) canceling this Agreement by delivery of written notice to Seller and both parties shall be relieved of all further obligations under this Agreement; or (ii) Purchaser may proceed with the Closing, whereupon Purchaser shall be entitled to and Seller shall assign to Purchaser all of Seller's interest in all condemnation payments, awards and settlements applicable to the Property.

17. Miscellaneous.

(a) Binding Agreement. This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, administrators, personal representative, successors, and assigns.

(b) Applicable Law Forum Selection and Consent to Jurisdiction. This Agreement shall be construed and governed in accordance with the laws of the Commonwealth of Virginia and in the event of any litigation hereunder, the venue for any such litigation, shall be the City of Danville, Virginia. All of the parties to this Agreement have participated fully in the negotiation and preparation hereof and accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

(c) Waiver of Jury Trial. The Parties to this Agreement hereby waive their right to a trial by jury with respect to disputes arising under this agreement and the related agreements and consent to a bench trial with the appropriate judge as the finder of fact.

(d) Interpretation. In the event any interpretation of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or reconstrued as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

(e) Attorneys' Fees and Court Costs. In the event of any litigation between the parties under this Agreement, each party shall be responsible for its own attorneys' fees and court costs through all trial and any appellate levels. The provisions of this subparagraph shall survive the Closing and any termination or cancellation of this Agreement.

(f) Gender. In construing this Agreement, the singular shall be deemed to include the plural, the plural shall be deemed to include the singular and the use of any gender shall include every other gender and all captions and paragraph headings shall be discarded.

(g) Title and Headings; References. Titles and headings to Sections and Subsections herein are inserted for the convenience of reference only, and not intended to be part of or to affect the meaning or interpretation of this Agreement. All Section and Subsection references in this Agreement are to the Sections and Subsections of this Agreement unless expressly stated to the contrary.

(h) Exhibits. All of the Exhibits to this Agreement are incorporated in and made a part of this Agreement.

(i) Entire Agreement; Modifications. This Agreement constitutes the entire agreement between the parties for sale and purchase of the Property and supersedes any other agreement or understanding of the parties with respect to the matters herein contained written or oral, between the parties hereto. This Agreement may not be changed, altered or modified except as set forth in a written instrument executed with the same formality as this Agreement.

(j) Effective Date. The term "Effective Date" or such other similar term, shall mean the date on which Seller and Purchaser have executed and delivered this Agreement.

(k) Time of the Essence. The parties hereby agree that time is of the essence with respect to performance of each of the parties' obligations under this Agreement. The parties agree that in the event that any date on which performance is to occur falls on a Saturday, Sunday or state or national holiday, then the time for such performance shall be extended until the next business day thereafter occurring.

(l) Severability. The invalidity, illegality, or unenforceability of any provision of this Lease as determined by a court of competent jurisdiction shall in no way affect the validity, legality or enforceability of any other provision hereof.

(m) Waiver of Breach. The waiver by a party of a breach or violation of any provision of the Agreement shall not constitute or be deemed a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

(n) Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which, when executed, shall be deemed to be an original, all of which shall be deemed to be one and the same instrument. Facsimile transmission signatures shall be deemed original signatures.

[Signatures on Following Page]

WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

PURCHASER: **Genesis North Union Properties LLC**

By: ___________________________________
Name: ________________________________
Title: _________________________________

SELLER: **Industrial Development Authority of Danville, Virginia.**

By: ___________________________________
Name: ________________________________
Title: _________________________________

EXHIBIT "A"

Industrial Development Authority

STAFF REPORT

DATE: August 8, 2023

TO: Industrial Development Authority

FROM: Corrie Bobe, Director of Economic Development and Tourism

RE: Consulting Services between the Danville Industrial Authority and Cherry Bekaert, LLC.

Request approval to engage Cherry Bekaert Advisory, LLC to provide application, consulting and compliance services to Danville, Virginia CDE Inc, regarding the Round 20 New Market Tax Credit Application.

ATTACHMENTS

1. 746 - 2023-08-08 Resoution approving Consulting Agreement with Cherry Bekaert LLC
2. DVCDE IDA Management Services Agreement CY 2021
3. DVCDE 2023 Agreement

PRESENTED: ______August 8, 2023______

ADOPTED: ________August 8, 2023______

RESOLUTION NO. 2023-____.____

A RESOLUTION AUTHORIZING AND APPROVING EXECUTION OF A CONSULTING SERVICES AGREEMENT BY AND BETWEEN THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA AND CHERRY BEKAERT ADVISORY, LLC.

WHEREAS, staff is requesting to engage Bekaert Advisory, LLC to provide application, consulting, and compliance services to Danville, Virginia CDE, INC regarding the Round 20 New Market Tax Credit Application.

NOW THEREFORE, BE IT RESOLVED that a Consulting Services Agreement, substantially in the form attached hereto and made a part hereof, between the Danville Industrial Development Authority and Cherry Bekaert Advisory, LLC be, and the same hereby is, approved; and

BE IT FURTHER RESOLVED that the Danville Industrial Development Authority does hereby authorize its Chairman, or in his absence any officer, to execute such Consulting Services Agreement on behalf of the Industrial Development Authority .

Approved:

____
Chairman

Attest:

____
Secretary

Approved as to
Form and Legal Sufficiency:

____
City Attorney

MANAGEMENT SERVICES AGREEMENT

THIS MANAGEMENT SERVICES AGREEMENT (the "Agreement") is made and entered into as of , 2023, by and between DANVILLE, VIRGINIA CDE, INC., a Virginia nonstock corporation ("CDE"), and the CITY OF DANVILLE INDUSTRIAL DEVELOPMENT AUTHORITY, a political subdivision of the City of Danville, Virginia ("Manager"), and provides as follows:

RECITALS

A. Manager works in cooperation with the City of Danville, Virginia and its Economic Development Office to promote and facilitate redevelopment activities in the City of Danville, Virginia.

B. CDE was organized to leverage the track record and resources of the City of Danville, Virginia to fund projects that create jobs primarily in low-income communities and for low income persons within the communities of Danville City, Halifax County, Henry County, Martinsville City, Patrick County and Pittsylvania County, Virginia (the "CDE Mission").

C. Given these aligned goals, CDE desires to retain the services of Manager with responsibilities for managing and operating certain aspects of CDE and administrating CDE's compliance with that certain New Markets Tax Credit Program Allocation Agreement dated effective as of March 20, 2023, between the Community Development Financial Institutions Fund (the "CDFI Fund"), CDE and certain subsidiary allocatees from time to time named therein (collectively, the "Allocation Agreement"), pursuant to which CDE received a Thirty Million and No\100 Dollars ($30,000,000) allocation of Federal new markets tax credits ("NMTCs").

D. Manager is willing to perform certain services for CDE with regard to the management and operation of CDE and administration of the Allocation Agreement on the terms and for the consideration set forth in this Agreement.

AGREEMENTS

NOW, THEREFORE, for and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Engagement of Manager. CDE hereby engages Manager as CDE's independent contractor to manage and operate certain aspects of CDE and to administer the Allocation Agreement all as more specifically set forth herein according to the requirements of the CDFI Fund and Internal Revenue Service (the "IRS") and Manager hereby agrees to such engagement.

2. Term and Termination.

2.1 Term. The term of this Agreement shall commence on the date hereof and shall continue through and include December 31, 2035. After the expiration of the initial term, this Agreement shall thereafter continue from year to year until terminated in accordance with Section 2.2 hereof.

2.2 <u>Termination.</u> Notwithstanding anything to the contrary in this Agreement, either party may terminate this Agreement by giving the other notice of its intention to terminate this Agreement no fewer than thirty (30) days prior to the date on which such termination is to be effective.

2.3 <u>Effect of Termination.</u> Except as otherwise provided herein, upon termination pursuant to this Section 2, Manager and CDE shall have no further duties and obligations to one another under this Agreement; provided that all accounts shall be settled within 45 days of termination.

3. <u>Duties of Manager.</u> During the term of this Agreement, Manager is hereby granted the authority, right and power to operate and manage the day to day operations of CDE and to administer the Allocation Agreement (as more specifically described in this Section 3, the "Management Duties") (all or any of which may be exercised in the name of CDE), except as specifically set forth in this Agreement. All obligations or expenses incurred by Manager in connection with the Management Duties shall be for the benefit of, on behalf of and at the expense of CDE, and CDE expressly agrees to assume and pay any and all such expenses and obligations. The parties hereto agree that pursuant to this Agreement a fiduciary relationship shall exist between CDE and Manager in connection with the Management Duties. Manager agrees to promote CDE and support its charitable mission in carrying out the Management Duties. Manager's specific obligations and duties shall be as follows:

3.1 <u>Collection of Monies.</u> Collect all fees, assessments and other payments due from developers, owners, project managers, or any other third party submitting a proposal for an award of NMTCs from the CDE, and any sums otherwise due CDE. CDE authorizes Manager to request, demand, collect, receive and receipt for all such rent and other charges on its behalf and in its name. All monies collected by Manager shall be forthwith deposited in an account or accounts established by Manager for the benefit of and in the name of CDE in a federally insured bank or savings and loan association approved by CDE. Funds in such account or accounts shall not be commingled with any funds of Manager and shall at all times be held in constructive trust for the benefit of CDE.

3.2 <u>Disbursement of Funds</u>. Manager agrees to disburse funds collected by Manager in accordance with the Operating Budget (as defined in Section 3.10).

3.3 <u>Administration Compliance with Allocation Agreement.</u> Manager shall administer CDE's compliance with the Allocation Agreement in all respects, including (a) monitoring CDE activities to ensure that they comply with the Allocation Agreement all laws and any CDFI Fund regulations related to the NMTCs, (b) ensuring CDE operates exclusively in furtherance of the CDE Mission, (c) recognizing and assessing all available opportunities and partners for the furtherance of the CDE Mission, including, but not limited to, identifying equity and leveraged investors, identifying opportunities for funding or partnering with other entities to expand the impact of CDE, and engaging with community organizations and leaders to effectively implement CDE's goals and the CDE Mission, (d) issuing requests for proposals for investments from investors and developers, (e) receiving and reviewing submissions for investments and documentation, (f) overseeing and monitoring of projects utilizing NMTCs governed by the Allocation Agreement.

3.4 Operation and Maintenance. Manager shall, as necessary, place orders on behalf of CDE for such equipment, materials and supplies as are reasonable and necessary for the management and operation, and service of CDE, including ordering letterhead and other paper supplies, postage and copy services as necessary; and shall pay all bills incidental to the operation of CDE.

3.5 Personnel. It is the intention of CDE and Manager that Manager will utilize its current employees for the Management Duties. To the extent that additional personnel arc required, Managers shall investigate, hire, train, promote, pay, supervise and discharge additional personnel reasonably necessary in order to properly discharge the Management Duties. Such personnel are and shall be employees of Manager and CDE will not supervise or direct such employees. Manager may contract with an employee leasing company for such personnel. All reasonable salaries and wages of personnel employed by Manager including, but not limited to, the cost of group medical and health insurance, social security taxes, federal withholding taxes, federal and state unemployment taxes, workman's compensation insurance and vacations shall be paid by Manager unless such costs are solely attributable to the Management Duties, in which case they shall be reimbursable to Manager by CDE. Manager shall be responsible for the execution and filing of appropriate forms, reports and returns required by law relating to personnel employed by Manager.

3.6 Books and Records. Manager shall keep full and adequate books of account and such other records reflecting the results of the Management Duties. Such books and records shall be kept in all material respects in accordance with generally accepted accounting principles. Manager shall allow CDE, its officers and directors and their accountants, attorneys and agents, the right to enter the office of Manager to examine or inspect the books and records relating to the Management Duties at any time during normal business hours upon reasonable notice to Manager. Books and records shall be kept at the office of Manager, but shall be the property of CDE.

3.7 Audit Responses. Manager shall be responsible for responding to audit inquiries timely and completely, and shall have authority to directly address all such inquiries on behalf of CDE. Manager shall have the authority to enter into agreements with certified financial accountants or audit specialists to have audited financial statements prepared for CDE.

3.8 Tax Returns and Financials. Manager shall prepare, or shall cause to be prepared, all tax returns and financial statements related to CDE in a timely and complete manner, and shall respond promptly to all requests for information regarding the finances of CDE by any governmental agency having authority over CDE.

3.9 Quarterly Reports. Manager shall deliver a written report of the previous quarter's operations to CDE, in form acceptable to CDE, which report shall include a complete listing of all receipts and disbursements, any material activities of CDE and any material matters related to the NMTCs governed by the Allocation Agreement.

3.10 Budgets. At least sixty (60) days before the beginning of each new calendar year during the Term hereof: Manager shall prepare and deliver to CDE, an operating budget ("Operating Budget") in preliminary draft form setting forth an itemized statement of the estimated receipts and disbursements for the next calendar year based upon information provided by CDE. A schedule for wage rates and all other compensation, expenses and benefits expected to be allocable to CDE for any employees will be included in the Operating Budget assumptions. CDE, through action of its Board of Directors, will, within thirty (30) days after receipt thereof approve the Operating Budget in writing. Failure by CDE to respond within such thirty (30) day period shall be deemed to constitute approval. If CDE does not approve the Operating Budget as presented, CDE and Manager will negotiate the terms thereof in good faith. Once said Operating Budget is approved or deemed approved by CDE, Manager shall be entitled to rely thereon in the disbursement of funds thereunder excepting other provisions contained herein to the contrary and CDE shall be deemed to have approved any expenditure by Manager that is not greater that one hundred and ten percent (110%) of any amount as set forth in the Operating Budget.

4. Compensation of Manager for Management Services.

4.1 Compensation. CDE shall pay Manager as compensation for the Management Duties rendered hereunder, the following (collectively, the "Management Fee"): (a) a structuring and transaction fee in an amount equal to four and one half percent (4.5%) of each "qualified equity investment" (as such term is defined in Section 45D of the Internal Revenue Code of 1986, as amended, and the associated Treasury Regulations) (a "QEI") made in a subsidiary of CDE (each a "Subsidiary CDE"), which structuring and transaction fee shall be payable by CDE at the time a QEI is made in a Subsidiary CDE; (b) an annual management fee in an amount equal to one half percent (0.5%) of each QEI made in a Subsidiary CDE, payable partially in arrears and partially in advance, prorated based on the amount of days since each QEI was made, with the first payment due on June 15 of the first year following the first QEI issuance date, and continuing on each June 15 thereafter; provided, however, that once a NMTC loan made from the proceeds of a QEI has matured or such NMTC loan has been distributed by the applicable Subsidiary CDE to its investor member in redemption of such investor member's interest, whichever occurs first, then the management fee calculated based on such QEI shall cease; (c) an annual reimbursement in the amount equal to all audit, tax and compliance expenses actually incurred by Manager in connection with each Subsidiary CDE that has received a QEI, with the first payment due on March 1 of the first year following the first QEI issuance date, and continuing on the same day of each year thereafter; and (d) an exit fee equal to one half percent (0.5%) of each QEI made in a Subsidiary CDE, which shall be payable on the day after the seventh (7th) anniversary of each such QEI. Notwithstanding anything herein to the contrary, no payment or accrual of Management Fees shall cause CDE to either become insolvent or cause the CDE to be in violation of its Allocation Agreement.

4.2 Administrative and Supervisory Expenses. All administrative and supervisory salaries and expenses and other company management overhead expenses (other than expenses for dedicated employees of CDE) of Manager will be borne by Manager out of its own funds and will not be treated as operating expenses of CDE. However, when it is to the financial benefit of CDE, normal duties and expenses (including but not limited to staff, bookkeeping, accounting services, clerical, office supplies and equipment, telephone and postage) may be performed off-site and paid for, to the extent approved by CDE, and treated as operating expenses of CDE in accordance with the Operating Budget. In addition, when feasible and to the financial benefit of CDE, certain functions and services will be shared with Manager's operations, and the cost will be prorated on an equitable basis and charged to CDE. Except as stated above, Manager shall not be entitled to reimbursement with respect to employees or office expenses.

4.3 Management Overhead Expenses. Manager's overhead expenses which will be borne by Manager out of its own funds and which will not be treated as operating expenses of CDE shall include (a) compensation of personnel employed or contracted by Manager, (b) rent for offices utilized by Manager; telephone and utility charges incurred at such offices; office supplies; rent for and repair and maintenance of office machines used at such offices; postage used at such offices; any rental for or allocation of depreciation or amortization of any properties owned by or leased by Manager and used in performance of its duties hereunder, (c) premiums and deductibles associated with employee dishonesty insurance on Manager's employees not associated with CDE, and (d) premiums and deductibles for general liability, worker's compensation, or other such insurance carried by Manager not associated with CDE. Except as stated above, Manager shall not be entitled to reimbursement with respect to employees or office expenses.

4.4 Additional Services. If Manager is called upon to perform any services not specified or contemplated hereunder, it is agreed that Manager shall receive additional compensation therefor in an amount and payable as agreed upon in writing between the parties.

5. Limitations on Manager's Authority; Right to Delegate.

5.1 Notwithstanding the authority granted to Manager in Section 3, Manager shall not have the authority and shall not do any of the following without prior written consent of CDE in each instance:

(a) Expend, incur or commit any funds other than in accordance with the Operating Budget.

(b) Enter into any contract on behalf of CDE requiring the expenditure of CDE funds which is not in accordance with the Operating Budget.

(c) Execute any deed, note, mortgage or security agreement binding CDE.

(d) Engage in or take any other actions or activities that Manager is precluded from undertaking pursuant to this Agreement.

(e) Act or fail to act in any way which is inconsistent with the CDE Mission, the Allocation Agreement or any laws relating to the NMTCs governed by the Allocation Agreement.

5.2 Delegation of Duties. Manager shall be entitled to (a) execute any of its duties under this Agreement by or through agents, employees, or attorneys-in-fact; and (b) rely upon the advice of counsel and other consultants or experts concerning all matters pertaining to such duties. Manager shall not be responsible for the negligence or misconduct of the agent or attorney-in-fact that it selects in the absence of gross negligence, recklessness, willful misconduct or fraud.

6. Miscellaneous.

6.1 Advance of Funds. Notwithstanding anything to the contrary contained herein, no provision of this Agreement shall in any manner obligate Manager to advance its own funds on behalf of CDE for any purpose.

6.2 Not a Partnership. Nothing contained in this Agreement shall constitute or be construed to be, or create, a partnership or joint venture between CDE and Manager, or their successors and assigns and Manager is and shall be and will remain an independent legal entity.

6.3 Conflict of Interest. Members acknowledge that Manager is acting in its capacity as manager of CDE for the duties set forth herein, and that this involvement creates a conflict of interest for persons serving on the Board of Directors for Manager who are also serving on CDE's Board of Directors. Therefore, the board members of CDE who are also board members of Manager have recused, and will continue to recuse, themselves from any action involving Manager as manager.

6.4 Indemnity.

(a) Manager's Indemnification of CDE. Manager agrees to indemnify, defend and hold harmless CDE, its directors, officers, employees and agents from and against any and all claims, liabilities, loss, damages, costs and expenses (including, without limitation, all incidental costs, fees an expense such as reasonable attorney's fees and all consequential damages) arising out of or in connection with the execution of the Management Duties and the performance of Manager's duties hereunder, or arising out of or in connection with the Management Duties or the performance of CDE's duties hereunder, as a result of any grossly negligent act or omission or intentional misconduct of Manager, unless resulting from the gross negligence or omission or intentional misconduct of CDE or unless fully covered (except for a reasonable deductible) by a policy of liability insurance.

(b) CDE's Indemnification of Manager. CDE agrees to indemnify, defend and hold harmless Manager, its directors, officers, employees and agents from and against any and all claims, liabilities, loss, damages, costs and expenses (including, without limitation, all incidental costs, fees and expenses, such as reasonable attorney's fees and all consequential damages) arising out of or in connection with the execution of this Agreement by CDE or resulting from any grossly negligent act or omission or intentional misconduct of CDE, unless resulting from the gross negligence or omissions or intentional misconduct of Manager or unless fully covered (except for a reasonable deductible) by a policy or liability insurance.

6.5 Assignment. Manager shall not transfer, assign, pledge or hypothecate its rights, duties or obligations under this Agreement without the prior written approval of CDE.

6.6 CDE's Representative. In connection with decisions required by CDE under this Agreement, CDE acknowledges that immediate decisions may be necessary and accordingly designates the Executive Director of CDE (or interim Executive Director if a permanent Executive Director is not in place) as its representative, who shall be readily available to make such decisions on behalf of CDE. CDE may change such designated representative only by written notice to Manager.

6.7 Entire Agreement. This Agreement constitutes all of the understandings and agreement of whatever nature or kind existing, of to which Manager is a party, with respect to Manager's execution of the Management Duties. Manager makes no guarantees, warranties of representations that there will be profits or that there will not be losses as a result of the execution of the Management Duties.

6.8 Headings. Section headings contained herein are for convenience of reference only and are not intended to define, limit or describe the scope or intent of any provision of this Agreement.

6.9 Consents. Whenever under any provision of this Agreement the approval or consent of either party is required, the decision thereon shall be promptly given and such approval or consent shall not be unreasonably withheld or delayed. It is further understood and agreed that whenever under any provision of this Agreement, approval or consent of CDE is required, the approval or consent shall be deemed to have been duly given if such approval or consent is given by the person executing this Agreement on behalf of CDE or any other person, as the case may be, designated in or pursuant to Section 6.6 hereof. Manager may rely exclusively and conclusively on the designation set forth in Section 6.6 hereof.

6.10 Notices. Any notice by any party to any other party shall be in writing and shall be given, and be deemed except as otherwise provided in this Agreement, to have been duly given (i) when actually received if delivered personally or (ii) five days after deposit in the United States mail, in a registered or certified postage paid envelope addressed to the respective parties as follows:

CDE: Danville, Virginia CDE, Inc.
427 Patton St.
Danville, VA 24541
Attn: Executive Director

Manager: City of Danville Industrial Development Authority
427 Patton St.
Danville, VA 24541
Attn: T. Neal Morris

Either party may at any time change the address for notices to such party by the delivery or mailing, as aforesaid, of a notice stating the change and setting forth the changed address.

6.11 Governing Law. This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the Commonwealth of Virginia.

6.12 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and permitted assigns.

6.13 Attorney's Fees. Manager does not undertake to practice law and no inference is to be drawn from this Agreement or any provisions hereof which would have the effect to requiring Manager to perform legal services. Whenever the services of a lawyer are useful or necessary in carrying our Manager's responsibilities hereunder, Manager is to use counsel approved by CDE (which approval shall not be unreasonably withheld) and whose fees and expenses shall be paid by CDE.

6.14 Assignability. This Agreement shall not be assignable by either party hereto without the prior written consent of the other party hereto.

6.15 Execution. This Agreement may be executed by facsimile or other electronic transmission and in any number of counterparts, each of which when so executed and delivered shall be an original document, but all of which counterparts shall together constitute one and the same instrument. This Agreement shall not be effective unless and until executed by all parties hereto.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, by their duly authorized representatives, as of the date first above written.

DANVILLE, VIRGINIA CDE, INC.

By: ________________________
Name: Corrie Teague Bobe
Title: Executive Director

CITY OF DANVILLE INDUSTRIAL DEVELOPMENT AUTHORITY

____
Title: Chairman

Cherry Bekaert
Your Guide Forward

May 5, 2023

Danville, Virginia CDE Inc.
c/o Mr. T. Neal Morris
Industrial Development Authority
427 Patton Street
Danville, VA 24543-3300

Via email: Corrie Bobe, Director, Economic Development & Tourism
corrie.bobe@discoverdanville.com

Re: DVCDE - 2023 Round 20 ("Round 20") NMTC Allocation Turn-Key Application Writing, Implementation and Compliance Engagement

Dear Mr. Morris:

Thank you for choosing Cherry Bekaert Advisory, LLC (the "Firm"/"we"/"us") to provide application, consulting and compliance services to Danville, Virginia CDE Inc. (hereafter referred to as "Client"/"you") regarding the Round 20 New Markets Tax Credit ("NMTC") Application ("Application"). This engagement letter (including the attached Engagement Letter Terms and Conditions, which are incorporated herein by reference) between Client and the Firm ("Letter") sets forth the nature and scope of the services we will provide, Client's required involvement and assistance in support of our services, and the related fee arrangements.

Summary of Services

Turn-Key Application

The Firm will:

1. Draft and submit electronic Round 20 Application to the Community Development Financial Institutions ("CDFI") Fund, including securing Debt and Equity Commitment Letters for inclusion in the Application, if required, and
2. Submit Application Attachments

Client will:

1. Propose a pipeline of suitable investments for the Application
2. Provide information to populate Application Exhibits and Tables, typically related to past 5+ years of investments, including related asset management data, management biographies, and past 5 years of capital raising activities
3. Review and approve Application documents for timely submission
4. Take all actions reasonably requested in order to apply for a NMTC Allocation
5. Work diligently to meet any CDFI Fund thresholds for funding eligibility

NMTC Policies and Procedures

Compliance Policies and Procedures: The guiding document for a Community Development Entity ("CDE") is its NMTC Application. It is the reason the CDE received an Allocation, and faithful adherence to it will be the reason the CDE might receive future Allocations. As such, this document becomes the roadmap in the execution of the CDE's goals and objectives. It is important to understand all explicit and implied "promises" made in the Application and embed them in the deployment of the Allocation. As such, we will use the Application, and the corresponding Allocation Agreement, to update Client's NMTC Policies and Procedures. The deliverables will include an updated hard copy and electronic copy of draft Policies and Procedures.

Closing Transactions

Should Client receive a Round 20 Allocation, the Firm will assist with programmatic issues and closing transactions. During the closing process, we will review and provide advice on initial due diligence information; term sheets/commitment letters; Performance Agreements; Better Rates and Terms documents; the required financial model; and certain other NMTC-specific issues.

Compliance Activities

Using a Microsoft SharePoint system to track and document compliance, Cherry Bekaert will be responsible for the following:

1. CDE Status,
   a. Annually secure the Advisory Board Confirmation Certificates
2. CDFI Fund Reporting Requirements,
   a. Verify submission of the Allocation and Qualified Equity Investment ("QEI") Tracking filings, documented at closings
   b. Complete and submit, through the CDFI Fund's Awards Management Information System ("AMIS"):
      i. Annual Institution Level Report
      ii. Annual Transaction Level Report
      iii. QEI Closeout Reports
      iv. Sub-CDE Dissolution Reports
   c. Verify submission of required annual Financial Statement Audits
3. CDFI Fund Agreement Requirements,
   a. Maintain flexible products documentation
   b. Maintain higher distress documentation
   c. Maintain Innovative Investments documentation
   d. Maintain other investment restrictions documentation mandated in Allocation Agreement
4. IRS Requirements,
   a. Maintain census tract verification
   b. Verify submission of, and maintain, IRS Form 8874 to the tax credit investor and the IRS
   c. Prepare Substantially All Requirement calculations in year one of QEIs and on 6-month intervals thereafter
   d. Prepare Redemption Tests to monitor investor distributions to avoid redemption of Investor QEI
5. Incorporate Investor Reporting Requirements into Microsoft SharePoint System, and
6. Maintain a monthly checklist to encompass the above items.

Client will be responsible for the following:
1. Organize, take, and maintain meeting minutes for required Operating Board and Advisory Board meetings,
2. Work with external law firm to ensure Qualified Active Low-Income Business ("QALICB") qualifications at closing, and
3. Take all actions reasonably requested to maintain CDFI Fund and IRS compliance.

Accounting Activities

The Firm will be responsible for the following:
1. Performing monthly bookkeeping activities and maintaining related records, such as financial statements, bank account reconciliations, etc., and
2. Preparing draft accounting policies, such as amortization, capitalization of fees/interest, etc.
3. Assisting external accounting firm with annual audits and tax return preparation

Client will be responsible for the following:

1. Opening and maintaining CDE and Sub-CDE bank accounts,
2. Sending/uploading copies of the following the first week of every month:
    a. Bank statements
    b. Paid invoices (indicated with the check number and date paid)
    c. Deposits and transfers, and
3. Approving draft financial statements, internal controls procedures, etc.

Asset Management Activities

The Firm will be responsible for the following:

1. Perform periodic reviews of QALICB's (i.e., the borrower's) financial information to detect risk of loan default,
2. Review QALICB insurance policies to verify CDE's status as loss payee,
3. Test QALICB for continued compliance with NMTC QALICB qualifications,
4. Review and document use of QLICIs to verify compliance with loan documents
5. Review interest calculations and payments to verify compliance with final closing loan documents, and
6. Review member distributions to ensure compliance with Sub-CDE Operating Agreement and IRS Regulations.

Client will be responsible for the following:

1. Collection of interest payments from QALICB and depositing into Sub-CDE account, and
2. Making member distributions to Sub-CDE Investor Member and Sub-CDE Managing Member.

Additional services provided by the Firm that the Client may elect to secure include:

Project Management Tool

Firm will create a personalized workspace and dashboard for your track record and pipeline, ensuring both align with the investment strategy outlined in the Round 20 Application. If requested, Firm can continue to provide annual maintenance and updates to the workspace.

Underwriting Memo Revisions

Firm will provide guidance and recommend revisions to the Client's existing underwriting memo to align with the items identified in your application and current allocation agreement. Key items will include financial considerations of the borrower, likelihood of project completion, experience of the management team, and market demand.

Any additional services and/or advice that you may request subsequent to the execution of this agreement, and that we agree to provide, will be invoiced under our customary billing practices outlined below.

Our Responsibilities

Accounting services including preparation services differ significantly from a compilation, review or an audit of financial statements. Accounting services including preparation services do not contemplate performing inquiry, analytical procedures, or other procedures performed in a review. Additionally, accounting services including preparation services do not contemplate obtaining an understanding of Client's internal control; assessing fraud risk; testing accounting records by obtaining sufficient appropriate audit evidence through inspection, observation, confirmation, or the examination of source documents (for example, cancelled checks or bank images); or other procedures ordinarily performed in an audit. Accordingly, we will not express an opinion or provide any assurance regarding the financial statements being prepared.

Our bank reconciliation services are performed **solely** to compare the amount of Cash in Bank on your books with the amount of Cash in Bank shown on the bank statement. This service is neither designed nor intended to deter or discover fraud, embezzlements, or any other irregularities.
When performing bank reconciliation services we **DO NOT**:

- Look at individual checks,
- Examine signatures, payees or any other information on any individual check,
- Examine the signature cards on file with the bank or determine if the correct authorized individuals have signed the check,
- Determine whether payee information matches what is shown in your books, or
- Perform any procedures to determine whether the checks are for appropriate expenses.

We will inform you of any material errors and any evidence or information that comes to our attention during the performance of our procedures that fraud may have occurred. In addition, we will report to you any evidence or information that comes to our attention during the performance of our procedures regarding illegal acts that may have occurred, unless they are clearly inconsequential.

Management Responsibilities

It is our understanding that you are the person responsible on behalf of Client for the services provided pursuant to this Letter, and as such, you are the appropriate person for us to contact to request any additional information and to receive any report or work product from us.

By signing below, you acknowledge that you are responsible for management decisions and functions. That responsibility includes designating qualified individuals with the necessary expertise to be responsible and accountable for overseeing all the services we perform as part of this engagement, as well as evaluating the adequacy and results of the services performed. You are responsible for maintaining all records..

Client agrees to take responsibility for providing, in a timely manner, schedules and supporting information, and assistance, including timely communication of all significant accounting and tax matters, as is normal and reasonable in the circumstances.

Responsible Person Status

In performing this engagement, we will not be acting on behalf of Client in any fiduciary or management capacity whatsoever. If we are filing or submitting any returns or other information on your behalf or if we are transmitting funds or authorizing fund transfers on your behalf, you agree that you are the "responsible person" and we are not taking on the role of a "responsible person" in any capacity. The Company is responsible for all filing requirements and payments of tax, interest, and/or penalties imposed by any taxing jurisdictions. The Company will review and approve all tax filings and fund transfers prior to submission to taxing authorities. In addition, the Company agrees to provide the Firm with copies of payment confirmations on a timely basis, if requested and not otherwise in our possession, to be maintained in the Firm's files.

Fees

NMTC Application: The fee for drafting and filing the NMTC Application is:

1. Initial fee: $25,000 (payable upon execution of the engagement letter),

2. Submission fee: $25,000 (payable upon submission of the Application), and

3. Success fee: 1.0% of NMTC allocation awarded, payable upon each closing of a transaction utilizing all or a portion of the NMTC allocation awarded as a result of the Application.

NMTC Policies and Procedures Update:

Should DVCDE receive a Round 20 award, a fixed fee of $15,000, payable following delivery of the draft documents.

Closing Transaction(s):

Fees are based upon the time incurred, billed upon transaction closing(s), at our standard hourly rates, which are adjusted on an annual basis. Our current hourly rates are as stated below.

Compliance Activities:

The Firm currently charges Client a base annual fee of $15,000, including one transaction closing. For each subsequent transaction that closes from a Round 20 transaction, the fee will be increased by $5,000 annually, payable upon closing and annual transaction compliance dates.

Accounting Activities:

Fees are based upon the time and expense incurred, billed monthly, at our standard hourly rates (noted below).

Asset Management Activities:

The Firm will charge the client a fixed fee of 25 basis points of the QEI per year per transaction, payable upon closing and annual transaction compliance dates.

Other:

Occasionally during transaction closing(s), the tax credit investor will require the CDE to either manage its Investment Fund and/or service the transaction Qualified Low-Income Community Investments ("QLICIs"). Should Client ask the Firm to perform either function, the fees would be:

Investment Fund Management:	$10,000 per year for 7 years
Service QLICIs:	$10,000 per year for 7 years

These fees will be paid to the Firm by Client or the QALICB, as determined in the loan documents.

Project Management Tool:

Basic Set Up: Fixed fee of $5,000 for creation of initial workspace and entry of track record data, payable following delivery of basic workspace and initial hour demonstration and training session.

2023 Annual Maintenance and Customization: Fixed fee of $5,000 to incorporate additional data requested by Client and add transaction data for financings completed in 2023.

2024 Annual Maintenance Updates: Fixed fee of $5,000.

Included in the above, Client will have basic viewing rights to the workspace. If additional editing rights are desired, Client may need to purchase a basic subscription to Monday.com. Firm can assist with training of Client staff and/or demonstrations of the Project Management Tool. After the first hour demonstration and training session included as part of Basic Set Up, additional training and demonstrations will be provided at the current hourly rates outlined below.

Underwriting Memo Revisions:

Fees are based on the Firm's current hourly rates described below, payable upon completion of the Underwriting Memo revisions.

Hourly Advisory Fees - Closing Transaction(s), Underwriting and Other Projects, as requested:

Fees for Closing Transactions are based upon the time incurred, billed upon transaction closing(s), at our standard hourly rates, which are adjusted on an annual basis. Our current hourly rates are as follows:

Managing Director:	$555
Director:	$555

Manager:	$430
Staff:	$340

In addition, we will bill for actual out-of-pocket expenses, which would include any requested overnight mail, travel, meals, and lodging costs. Invoices, to be prepared monthly, will be due within 30 days.

A service charge will be added to past due accounts equal to 1½% per month (18% annually) on the previous month's balance less payments received during the month, with a minimum charge of $2.00 per month.

Fees for services not described above, and that are not subject to a separate arrangement, will be based upon our customary billing practices at the time of the engagement, which contemplate the professional services we render and any expenses incurred. These fees will be billed periodically as charges are incurred.

Limitation of Damages

In recognition of the relative risks and benefits of this agreement to both Client and the Firm, Client agrees, to the fullest extent permitted by law, to limit the damages owed by the Firm to Client for any and all liability, claims, losses, and costs, of any nature whatsoever, so that the total aggregate damages payable by the Firm to Client shall not exceed the total fees for services rendered under this agreement. Both parties to this agreement intend and agree that this limitation apply to any and all damages or causes of action against the Firm, however alleged or arising, unless otherwise prohibited by law, or unless the claimed damages arise due to the alleged gross negligence or willful misconduct of the Firm.

Limitation on the Filing of a Claim

The Company and the Firm agree that any suit arising out of or related to the services contemplated by this Letter must be filed within two (2) years after the cause of action arises. The cause of action arises upon the earlier of (i) delivery of a service for which the Firm has been engaged or (ii) the date which the services contemplated under this Letter are terminated by either party. The Company agrees not to bring any claims arising out of or related to the services contemplated by this Letter against any partner or employee of the Firm in any form for any reason.

Indemnity

The Firm will rely on you to provide information and representations to us in the performance of our professional services and in consideration of the fees that we will charge. Because we will be relying on Management's representations, you agree to indemnify the Firm, and its partners and employees, and hold them harmless from all claims, liabilities, losses, and costs arising in circumstances where there has been a knowing misrepresentation by you, your employee, or your agent, regardless of whether such employee or agent was acting in Client's interest. This indemnification applies only to the extent of claims, liabilities, losses, and costs attributable to the misrepresentation and will survive termination of this Letter.

In addition, in the event of a claim by a third party relating to services under this letter, Client releases and will indemnify and hold harmless the Firm and its personnel from all such claims and liabilities.

Other Provisions

This Letter contains information proprietary and confidential to the Firm and shall not be reproduced, disseminated, or transmitted by any means, in whole or in part, or disclosed in any manner to a third party, without the express prior written consent of the Firm, except as required by law. Title in and to this document and all information contained herein remains at all times with the Firm. Any person or entity to whom this document is furnished or who otherwise has possession thereof, by acceptance agrees that this information will not be disclosed to a third party or used in any manner except to meet the purposes for which it was delivered. This Letter is between Client and the Firm only, and the parties do not intend that any third party shall benefit from this Letter.

This engagement letter, including the attached Engagement Letter Terms and Conditions and any Exhibits, sets forth the entire understanding between Client and the Firm regarding the services described herein and supersedes any previous proposals, correspondence, and understandings, whether written or oral. Any subsequent changes to the terms of this Letter, other than additional billings, will be rendered in writing and shall be executed by both parties. Should any portion of this Letter be ruled invalid, it is agreed that such invalidity will not affect any of the remaining portions.

If the foregoing and the attached Engagement Letter Terms and Conditions are in accordance with your understanding, please sign a copy of this Letter in the space provided and return it to us in paper form or by electronic transmission. The terms, fees, and conditions listed herein will expire 30 days from the date of this Letter if unsigned, unless the Firm, at its sole discretion, expressly agrees to waive the provisions of this paragraph. Please maintain a copy of this Letter for your files.

We want to express our appreciation for this opportunity to be of service to you. If you have any questions or concerns regarding this Letter or the attached Terms and Conditions, please do not hesitate to contact us.

Sincerely,

Cherry Bekaert Advisory LLC

Cherry Bekaert Advisory, LLC

Attachment: Engagement Letter Terms and Conditions

ACCEPTED BY:

Printed Name	Signature
Title / Entity	Date

Cherry Bekaert
Engagement Letter Terms and Conditions

The following terms and conditions are an integral part of the attached engagement letter ("Letter") and should be read in their entirety in conjunction with your review of the Letter.

Reliance
Client recognizes and confirms that the Firm, in performing the services described in this Letter, will use and rely on data, material, and other information furnished by Client and its advisors. Client acknowledges and agrees that the Firm may rely upon such data, material, and other information without independently verifying the accuracy, completeness, or veracity of the data, material, or other information.

Legal Services
It is expressly agreed and acknowledged that Client has retained the Firm in an advisory capacity and not as legal counsel for any purposes, and nothing contained in any communications from the Firm, whether written, oral, or electronic, may be relied upon by Client as legal advice. Neither the Firm nor any of its personnel are being viewed by Client as legal counsel to Client, no attorney/client privilege exists between Client and the Firm, and Client has engaged independent legal counsel for all purposes for which Client desires such services.

No Fiduciary Relationship
In the performance of our professional services, these standards impose on us certain obligations that may require us to act contrary to what you may believe is in Client's best interest. As a result, we will not enter into a fiduciary relationship with Client and Client should not impose on us special confidence that we will conduct this engagement with only Client's interest in mind. Accordingly, you understand that no fiduciary relationship will be created by this engagement.

Independent Contractor
It is expressly understood and agreed to that each party is an independent contractor with respect to the other and that the Firm is not an employee or agent of Client. Further, it is expressly understood and agreed to that nothing contained in this Letter shall be construed as creating a trustee, joint venture, agency, partnership, association, or other affiliation or like relationship.

Marketing and Other Media
The Firm reserves the right to publicize the projects financed in connection with this engagement, but shall keep the terms and conditions of the financing confidential. Client will work with Firm to develop mutually agreeable materials for publication. Client hereby authorizes the Firm to reproduce and display any media of the project (including photographs and illustrations) submitted to the Firm by Client. Client represents and warrants to the Firm that Client has obtained any and all licenses and/or permissions necessary for Client's and the Firm's use of such media.

Electronic Transmittals
During the course of our engagement, we may electronically transmit confidential information to each other, within the Firm, and to other entities engaged by either party. Electronic transmissions via email, Client Portal, and other means may be subject to unauthorized interception. You agree to the use of email, Client Portal, and other electronic methods to transmit and receive information, including confidential information between the Firm, Client, and other third-party providers utilized by either party in connection with this engagement.

Confidentiality and Access to Working Papers
We are required by professional standards and federal law to keep all information about our engagement confidential. Except as described above, we will not disclose any information about Client unless we have your approval through written consent or are required/permitted by law. This applies even if Client is no longer a client.

The working papers and related documentation for this engagement are the property of the Firm and constitute confidential information. Any requests for access to our working papers will be discussed with you prior to making them available to requesting parties.

We may be requested to make certain documentation available to regulators, governmental agencies (e.g., SEC, PCAOB, HUD, DOL, etc.) or their representatives ("Regulators") pursuant to law or regulations. If requested, access to the documentation will be provided to the Regulators. The Regulators may intend to distribute to others, including other governmental agencies, without our knowledge or express permission. You hereby acknowledge and authorize us to allow Regulators access to and copies of documentation as requested.

Record Retention
We are committed to the safekeeping of Client's confidential information, and we maintain physical, electronic, and procedural safeguards to protect this information. In general, it is our Firm's policy to keep copies of working papers and other records related to this engagement for no more than seven years from the date we conclude our service to you with respect to this engagement.

Your original records will be uploaded to and stored on our Client Portal. Any original Client records in the Firm's possession will be shredded in accordance with the timeline stated above. It is Client's responsibility to retain all the documents and data that pertain to this engagement.

Subpoenas
In the event we are requested or authorized by you or required by governmental regulation, subpoena, or other legal process to produce our working papers or our personnel as witnesses with respect to our engagement with Client, Client will, so long as we are not a party to the proceeding in which the information is sought, reimburse us at standard billing rates for our professional time and expense, as well as the fees and expenses of our counsel, incurred in responding to such a request.

Third-Party Service Provider
In the normal course of providing our services, we may on occasion use the services of an independent contractor, a temporary or loaned employee, or a non-affiliated technology vendor, all of whom may be considered a third-party service provider. On these occasions, we remain responsible for the adequate oversight of all services performed by the third-party service provider and for ensuring that all services are performed with professional competence and due professional care.

When we share confidential information about you with third parties, we remain committed to maintaining the confidentiality and security of your information. We will enter into a contractual agreement with the third-party service provider to maintain the confidentiality of information and be reasonably assured that the third-party service provider has appropriate procedures in place to prevent the unauthorized release of confidential information to others.

Cherry Bekaert Advisory LLC and Cherry Bekaert LLP (an associated, but not affiliated, entity) are parties to an administrative services agreement ("ASA"). Cherry Bekaert Advisory LLC and Cherry Bekaert LLP are operating in an arrangement commonly described as an "alternative practice structure." To the extent Cherry Bekaert LLP provides attestation services to you, Cherry Bekaert LLP will provide Cherry Bekaert Advisory LLC with access to your accounting, financial, and other records that Cherry Bekaert LLP maintains, in order to enable Cherry Bekaert Advisory LLC to provide to you the services contemplated by this Letter.

Assignment
This agreement cannot be assigned, other than to an affiliated or associated entity, except by the mutual consent in writing of all parties, which consent shall not be unreasonable withheld or delayed.

Terms and Conditions Supporting Fee
Client agrees to pay all costs of collection (including reasonable attorneys' fees) that the Firm may incur in connection with the collection of unpaid invoices. In the event of nonpayment of any invoice rendered by us, we retain the right to: (a) suspend the performance of our services, (b) change the payment conditions under this Letter, or (c) terminate our services. If we elect to suspend our services, such services will not be

resumed until your account is paid. If we elect to terminate our services for nonpayment, Client will be obligated to compensate us for all time expended and reimburse us for all expenses through the date of termination.

Dispute Resolution Procedures
If any dispute, controversy, or claim arises in connection with the performance or breach of this agreement, either party may, on written notice to the other party, request that the matter be mediated. Such mediation would be conducted by a mediator acceptable to both parties. Both parties would exert their best efforts to discuss with each other in good faith their respective positions in an attempt to finally resolve such dispute, controversy, or claim.

Waiver of Trial by Jury
In the event the parties are unable to successfully mediate any dispute, controversy, or claim, the parties agree to WAIVE TRIAL BY JURY and agree that the court will hear any matter without a jury.

Independent Contractor
Each party is an independent contractor with respect to the other and shall not be construed as having a trustee, joint venture, agency, or fiduciary relationship.

No Third-Party Beneficiaries
The parties do not intend to benefit any third party by entering into this agreement, and nothing contained in this agreement confers any right or benefit upon any person or entity who or which is not a signatory of this agreement.

Counterparts
This agreement may be executed in any number of counterparts, which together shall constitute one and the same original document.

Industrial Development Authority

STAFF REPORT

DATE: August 8, 2023

TO: Industrial Development Authority

FROM: Kelvin Perry, Assistant Director of Economic Development and Tourism

RE: Final Commitment Letter from American National Bank to the Danville Industrial Development Authority for 527 Bridge Street.

Final Commitment Letter from American National Bank to the Danville Industrial Development Authority for 527 Bridge Street.

ATTACHMENTS

1. 747 Resolution Execute Commitment Letter with ANB for Loan Renewal 527 Bridge Street
2. Commitment Letter D IDA $561M renewal 527 Bridge Street 7-26-23 (TMP Revisions)

PRESENTED: August 8, 2023

ADOPTED: August 8, 2023

RESOLUTION NO. 2023-____.____

A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO EXECUTE THE ATTACHED LOAN RENEWAL COMMITMENT LETTER WITH AMERICAN NATIONAL BANK AND TRUST COMPANY IN AN AMOUNT NOT TO EXCEED $561,892.88 FOR THE RENEWAL LOAN AGAINST REAL PROPERTY LOCATED AT 527 Bridge Street.

WHEREAS, the existing loan with American National Bank and Trust Company ("American National Bank") for 527 Bridge Street is up for renewal; and

WHEREAS, American National Bank has sent a Financing Commitment Letter with the listed Terms and Conditions for the renewal of the loan existing against the property located at 527 Bridge Street.

NOW THEREFORE, BE IT RESOLVED by the Industrial Development Authority of Danville, Virginia ("IDA") that the Chairman, or in his absence any Officer, be, and hereby is, approved and authorized to execute the required Loan Commitment Letter for the renewal of an existing loan at 527 Bridge Street with American National Bank in an amount not to exceed Five Hundred Sixty-One Thousand Eight Hundred Ninety-Two and 88/100 Dollars ($561,892.88) to renew the existing loan on the property located at 527 Bridge Street, substantially in the form attached hereto and made a part hereof as if set out fully within; and

BE IT FURTHER RESOLVED that the Chairman, or in his absence any Officer, be, and hereby is, authorized to execute any and all other documents necessary for this loan renewal as needed to complete this transaction.

Approved:

____
Chairman

Attest:

____
Secretary

Approved as to
Form and Legal Sufficiency:

____
City Attorney

AMERICAN NATIONAL

BANK & TRUST COMPANY

July 26, 2023

Mr. T. Neal Morris, Chairman
Industrial Development Authority of Danville, VA.
City of Danville
427 Patton Street Suite 421
Danville, VA 24541

Dear Chairman Morris:

American National Bank and Trust Company (hereafter the "Bank"), is pleased to renew for the Industrial Development Authority of Danville, VA (the "Borrower") a term loan in an amount not to exceed $561,892.88 plus applicable closing costs, (hereafter, the "loan") subject to the following terms and conditions:

BORROWER(S):

Industrial Development Authority of Danville Virginia

FACILITY / AMOUNT:

Term Loan in an amount not to exceed $561,892.88 plus applicable closing costs

PURPOSE:

Refinance the current balance owed on 527 Bridge Street, Danville, VA.

INTEREST RATE:

Interest shall accrue at a fixed rate of five percent (7.25%). Interest shall accrue on the basis of a 360 day year as applied to actual days.

TERM / REPAYMENT:

Principal and interest payments shall be due monthly based on the remaining term of one hundred twenty (120) months. Maturity date shall be sixty (60) months from the date of the note.

ORIGINATION FEE:

An origination fee of one half percent (.50%) of the loan balance will be applicable and will be collected at loan closing.

COLLATERAL:

A Credit Line Deed of Trust and an assignment of all rents and leases on the property known as 527 Bridge Street, Danville VA. The loan is cross collateralized with the American National Bank loans securing 979 Lockett Drive, Danville, VA (formerly known as 1000 Lockett Drive, Danville, VA) and 1350 Barker Road, Ringgold, VA.

GUARANTOR(S):

The loan will require the full moral obligation of the City of Danville.

PREPAYMENT:

The loan may be prepaid in whole or in part at any time without premium or penalty.

DEPOSITS:

Borrower(s) shall maintain its primary deposit relationship with the Bank.

HAZARD INSURANCE:

At closing Borrower will provide Bank with evidence of a hazard insurance policy for the full replacement cost of the insurable portions of the collateral, naming Bank as lienholder/loss payee. Borrower will maintain such insurance during the life of the loan.

OTHER FEES / EXPENSES:

By accepting this commitment, Borrower agrees to pay all costs and expenses incurred by Bank in connection with the Bank's review, due diligence, and loan closing. These fees include, but are not limited to: attorney's fees incurred in connection with negotiation and preparation of loan related documents; costs of environmental investigation and audit; cost of appraisals and appraisal reviews; cost of title examinations and title insurance premiums; cost of surveys; inspection fees; filing fees; recording costs; architect fees; flood determination fees; and all insurance premiums and costs. Borrower agrees to reimburse Bank for any and all costs regardless of whether loan closing occurs.

Bank reserves the right to designate an attorney of its choice to represent it in connection with this loan, at Borrower's expense. Upon your acceptance of this commitment, we will instruct the attorney of your choice (subject to Bank approval) to facilitate closing once all terms and conditions precedent have been met.

FINANCIAL REPORTING REQUIREMENTS:

Annual Financial Statements: Borrower shall deliver to bank within 120 days after the end of each fiscal year, CPA prepared financial statements of Compiled quality or better, as determined by Bank, for any Borrower or Guarantor which is an entity (defined as a corporation, limited liability company, limited partnership, business trust, trust, estate, or other entity that is not a living person). These statements must reflect operations during the fiscal year, including a balance sheet, profit and loss statement, and statement of cash flow, as well as any supporting schedules. These statements should provide reasonable detail and be prepared in accordance with generally accepted accounting principles (except in cases where the nature of the business warrants deviation from GAAP).

Other Financial Information: Upon Bank's request, Borrower and/or Guarantors will provide any other such financial information Bank deems necessary for review, including but not limited to: periodic financial statements for component entities, accounts receivable aging reports, accounts payable aging reports, inventory reports, rent rolls, copies of leases, and work in progress reports. All information shall be in form and content satisfactory to Bank.

All financial reports required to be provided under this agreement shall be prepared in accordance with GAAP or OCBOA, applied on a consistent basis, and certified by Borrower as being true and correct.

COVENANTS:

None

LOAN DOCUMENTS:

Loan closing is contingent upon execution and delivery of loan documents, including all items to create and perfect a security interest. This commitment is designed to provide an outline of the transaction and is not meant to address all issues, requirements, or conditions which will be fully addressed in the loan documents.

ASSIGNABILITY / RELIANCE:

This commitment constitutes an offer by Bank to Borrower to make a loan subject to the terms and conditions set forth herein, and cannot not be relied upon by any third party. This commitment and the right of the Borrower to receive loans hereunder may not be assigned or transferred by Borrower without prior written approval of Bank. There are no third-party beneficiaries of this commitment.

CONFIDENTIALITY:

Borrower will treat the existence and terms of this commitment as confidential. Borrower will not disclose the terms of this commitment to any other lender, or to any other person other than Borrower's attorneys, accountants, and other business consultants.

SURVIVAL:

Borrower will execute and deliver any and all legal documentation from Bank that is necessary to facilitate loan closing and lien perfection. To the extent that the terms, provisions and conditions set forth in this commitment are not contained in the other loan documents, they shall survive the loan closing and this commitment will constitute one of the loan documents.

To the extent there is any conflict or inconsistency between the provisions of this commitment and the other loan documents, the provisions of the loan documents will control and supersede the provisions of this commitment. In the event the other loan documents do not address a particular issue, contingency, condition, or provision and this commitment does address such items, this shall not be construed as a conflict between this commitment and the loan documents.

GENERAL CONDITIONS:

The Bank has issued this commitment on the basis of and in reliance upon the assurance of information, exhibits, documents or materials submitted to the Bank by Borrower or on Borrower's behalf in connection with the loan. Bank shall have the option to terminate this commitment upon written notice to Borrower if it determines there has been any material misrepresentations or misstatement of material fact by Borrower; if prior to disbursement of the loan there shall have been a material adverse change in the state of facts or any material adverse change in the state of facts or a material adverse change in the financial condition of Borrower or Guarantor; or if Borrower shall have become insolvent, incapacitated, or shall file or have filed against it any petition under the United States Bankruptcy Code. Borrower acknowledges that with acceptance of this commitment, Borrower acknowledges that variables such as cost overruns, loss of income, additional indebtedness, deterioration in existing credit scores, or other characteristic negatively affecting financial capacity or the value of the collateral may negatively affect Borrower's ability to obtain financing.

ACCEPTANCE:

This commitment will expire if not accepted or extended in writing by the close of business on August 31, 2023 (the "commitment expiration date").

If this commitment is accepted, time being of the essence, the loan made in connection herewith must close on or before the close of business on August 31, 2023 (the "closing date") unless the Bank extends the closing date in writing. The Borrower acknowledges that the interest rate and other terms of the loan outlined in the commitment are based upon acceptance of this commitment and closing of the loan within the time periods set forth above and that these time periods are material factors in the Bank offering this commitment.

If the commitment is not accepted by the commitment expiration date or, if accepted, the loan is not closed by the closing date, then Bank's obligations under this commitment shall be null and void and of no further force or effect.

We appreciate your business and the opportunity to provide you with the financial services of American National Bank and Trust Company. Should you have any questions regarding this commitment, please do not hesitate to contact me.

Sincerely,
AMERICAN NATIONAL BANK AND TRUST COMPANY

By: Ted R Laws ______________________________
Ted R. Laws, SVP

The undersigned accepts the foregoing commitment, and by this acceptance agrees to be bound by its terms, this __________ day of ______________, 20_______.

BORROWER: Industrial Development Authority of Danville Virginia

By: ______________________________
T. Neal Morris, Chairman

Council Letter
City of Danville, Virginia

CL - 759 **RESOLUTIONS 5.**

Industrial Development Authority REGULAR MEETING

Meeting Date: August 8, 2023

Subject: A Resolution to approve the refinancing of a loan for 527 Bridge Street with American National Bank and Trust.

From: W. Clarke Whitfield Jr., City Attorney

COUNCIL ACTION

A Resolution to approve the refinancing of a loan for 527 Bridge Street with American National Bank and Trust.

Attachments

1. 759 RES 527 Bridge St Refi with ANB
2. 759- Attachment- 527 Bridge Street Danville - Amended and Restated Loan Agreement 8.25.2023
3. 759 -Attachment 527 Bridge Street Danville - Amended and Restated Promissory Note 8.25.2023

PRESENTED: August 8, 2023

ADOPTED: August 8, 2023

RESOLUTION NO. 2023-____.____

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING AN AMENDED AND RESTATED LOAN AGREEMENT AND PROMISSORY NOTE TO REFINANCE IMPROVEMENTS LOCATED AT 527 BRIDGE STREET FROM AMERICAN NATIONAL BANK AND TRUST COMPANY.

WHEREAS, pursuant to a Previous Loan Agreement, the Industrial Development Authority Of Danville, Virginia (IDA) obtained financing from American National Bank and Trust Company (American National Bank) secured by real property situated at 527 Bridge Street, Danville, Virginia 24541 and improvements thereon, located in the City of Danville, Virginia; and

WHEREAS, the IDA desires to amend and renew the Previous Loan and American National Bank is willing to amend and renew the Previous Loan.

NOW THEREFORE, BE IT RESOLVED by the Industrial Development Authority of Danville, Virginia that it hereby authorizes and approves the refinancing of a loan in the new principal amount of Six Hundred Thousand and 00/100 Dollars ($600,000.00) from American National Bank for the improvements at 527 Bridge Street; and

BE IT FURTHER RESOLVED by the Industrial Development Authority of Danville, Virginia that the IDA, hereby is, approves all “Loan Documents” associated with is transaction, including but not limited to, the Amended and Restated Promissory Note, and the Amended and Restated Loan Agreement both attached hereto and made a part hereof as if fully set out herein; and

BE IT FINALLY RESOLVED by the Industrial Development Authority of Danville, Virginia that the Authority herby approves and authorizes the Chairman, or in his absence any officer, to execute, acknowledge, the Amended and Restated Promissory Note, and the Amended and Restated Loan Agreement and deliver and all such further documents as may be reasonably required to carry out and consummate the transactions contemplated by this Resolution.

APPROVED:

____
Chairman

ATTEST:

____
Secretary

Approved as to
Form and Legal Sufficiency:

____
City Attorney

AMENDED AND RESTATED LOAN AGREEMENT

THIS AMENDED AND RESTATED LOAN AGREEMENT ("Agreement") dated as of August 25, 2023 is by and between the INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia ("Borrower"), and AMERICAN NATIONAL BANK AND TRUST COMPANY, a national banking association ("Lender"), and amends and restates in its entirety that certain Loan Agreement dated August 16, 2018, by and between Borrower and Lender (the "Previous Loan Agreement"). **NO NOVATION IS INTENDED HEREBY.**

RECITALS:

A. Pursuant to the Previous Loan Agreement, Borrower obtained financing from Lender secured by real property situated at 527 Bridge Street (Tax PINs 21487 and 26821), and improvements thereon, located in the City of Danville, Virginia (the "Previous Loan").

B. Borrower has applied to Lender to renew the Previous Loan associated with the acquisition and upfit of the Property.

C. Borrower desires to amend and renew the Previous Loan and Lender is willing to amend and renew the Previous Loan upon the terms and conditions provided below.

D. Lender is willing to modify the Previous Loan upon the terms and conditions provided below and has agreed to renew the Previous Loan for a term of sixty (60) months in an amount necessary to cover the outstanding principal balance, bank charges associated with the renewal, and attorneys' fees and other costs and expenses, not to exceed in the aggregate a new principal amount of Six Hundred Thousand and 00/100 Dollars ($600,000.00) (the "Loan"), as evidenced and described in that promissory note dated as of the date of this Agreement, the terms of which are incorporated herein by reference.

E. The parties desire to set forth in this Agreement the terms, covenants, and conditions and other particulars concerning the Loan, and the parties agree and acknowledge that the Loan is being made to Borrower upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the parties agree as follows:

AGREEMENT

SECTION 1
Definitions

1.1 Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"979 Lockett Drive Deed of Trust" shall mean that certain Credit Line Deed of Trust dated as of September 16, 2013 and recorded in the Clerk's Office as Instrument No. 13-3770, with respect to the real estate known as 979 Lockett Drive, Danville, Virginia 24541 (formerly known as 979 and 1000 Lockett Drive) (Tax PINs 75918, 78267, and 78545) to secure the payment and performance of the Obligations, granting to Lender a first priority lien on the real estate located at 979 Lockett Drive, Danville, Virginia 24541, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

"Advances" shall mean any and all funds advanced from or charged to Borrower's account under conditions set forth in this Loan Agreement.

"Affiliate" shall mean, with respect to any Person, another Person that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such Person.

"Agreement" shall mean this Loan Agreement, including all amendments, modifications and supplements thereto.

"Applicable Law" shall mean all provisions of laws, statutes, ordinances, rules, regulations, permits, requirements, certificates or orders of any Governmental Authority applicable to the Person in question or any of its assets or property, and all judgments, injunctions, orders and decrees of all courts and arbitrators in proceedings or actions in which the Person in question is a party or by which any of its assets or properties may be bound.

"Assignment of Rents" shall mean collectively, the Assignment of Rents dated April 30, 2013 and recorded in the Clerk's Office as Instrument Number 13-1582, and the Assignment of Rents dated September 16, 2013 and recorded in the Clerk's Office as Instrument Number 13-3771 from Borrower to Lender, securing repayment of the Obligations.

"Borrower" shall mean Industrial Development Authority of Danville, Virginia, a political subdivision of the Commonwealth of Virginia.

"Business Day" shall mean any day other than a Saturday, Sunday or legal holiday in the Commonwealth of Virginia or observed by the City of Danville, Virginia.

"Clerk's Office" shall mean the Clerk's Office of the Circuit Court of Danville, Virginia.

"Closing" shall mean the execution of the Agreement, and the execution and delivery of all other Loan Documents required under the terms of the Agreement.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and the rules and regulations issued thereunder, as from time to time in effect, or any successor thereto.

"Collateral" shall mean the security provided for under Section 3.1 and Section 3.2 of this Agreement.

"Commitment Letter" shall mean that certain commitment letter dated July 26, 2023 from Lender to Borrower.

"Deed of Trust" shall mean that certain Credit Line Deed of Trust dated as of April 30, 2013 and recorded in the Clerk's Office as Instrument No. 13-1581, with respect to the Property to secure the payment and performance of the Obligations, granting to Lender a first priority lien on the Property, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

"Environmental Laws" shall mean at any date, all provisions of Applicable Law concerning the protection of the environment (including soil, the air, surface waters, ground water and land use) including all administrative orders, directed duties, licenses, authorizations and permits of, and agreements with, any Governmental Authority, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), the Clean Air Act, the Federal Water Pollution Control Act of 1972, the Solid Waste Disposal Act, the Federal Resource Conservation and Recovery Act, the Toxic Substances Control Act and the Emergency Planning and Community Right-to-Know Act.

"Event of Default" shall mean an Event of Default as defined in Section 8.1.

"Governmental Authority" shall mean any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, or any court, in each case whether of the United States or foreign.

"Hazardous Materials" shall mean all those substances which are regulated by, or which may form the basis of liability under, any Environmental Law, including all substances identified under any Environmental Law as a pollutant, contaminant, hazardous substance, hazardous material, toxic substance or waste, petroleum or petroleum derived substance or waste, radioactive substance or waste, special waste, industrial waste, any other substance or waste that, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or pose a present or potential hazard to health or the environment when improperly used, stored, generated, manufactured, handled or released, or any constituent of any such substance or waste.

"Improvements" shall mean all on-site improvements located on the Land, together with all fixtures, improvements, and appurtenances now or later to be located on the Land and in such improvements.

"Land" shall mean the real estate owned by Borrower situated at 527 Bridge Street, Danville, Virginia 24541.

"Lender" shall mean American National Bank and Trust Company, a national banking association, with an office located at 628 Main Street, Danville, Virginia, and its successors, assigns, or transferees.

"Loan" shall mean the loan made by Lender to Borrower in the maximum amount of $600,000.00.

"Loan Documents" shall mean this Agreement (including all exhibits), the Deed of Trust, the Collateral Deed of Trust, the Assignment of Lease, the Note, the Moral Obligation Agreement, the Commitment Letter, and financing statements and such other documents evidencing, securing or pertaining to the Loan as shall from time to time, be executed and delivered by Borrower, or any other party to Lender pursuant to this Agreement.

"Note" shall mean that Promissory Note of even date herewith in the principal amount of $569,958.34, executed by Borrower and delivered to Lender pursuant to this Agreement to evidence the Loan made to Borrower, together with any amendments, modifications and supplements thereto, and any renewals or extensions thereof, in whole or in part.

"Obligations" shall mean the unpaid principal amount of and accrued interest on the Note and all other obligations and liabilities of Borrower to Lender, now existing or hereafter incurred, under, arising out of or in connection with this Agreement and the Note, and all obligations, liabilities and indebtedness of Borrower under any Loan Document, in each case howsoever created, arising or evidenced, whether voluntary or involuntary, direct or indirect, absolute or contingent, liquidated or unliquidated, now or hereafter existing, or due or to become due, including but not limited to all Cross-Default Obligations, and all other liabilities of Borrower to Lender now existing or hereafter incurred, matured or unmatured, direct or contingent, whether or not evidenced by a note or notes, and any and all renewals and extensions thereof and substitutions therefor.

"Person" shall mean any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity, party, political subdivision, or governmental authority.

"Property" shall mean the Land, the Improvements and all other property of Borrower described in the Deed of Trust, or subject to a right, lien or security interest to secure the Loan pursuant to any other Loan Document.

SECTION 2
The Loan

2.1 Loan. Subject to the terms and conditions of this Agreement, Lender will make the Loan by advancing for the account of Borrower, the sum necessary to pay the existing indebtedness owed by Borrower to Lender associated with the Property, plus closing costs of this Loan, and which sum in the aggregate will not exceed not to exceed in the aggregate a new principal amount Six Hundred Thousand and 00/100 Dollars ($600,000.00) (the "Loan Amount").

2.2 Note and Moral Obligation Agreement. The Loan shall be evidenced by the Note in form and substance satisfactory to Lender. Borrower shall, in conjunction with the execution and delivery of the Note, deliver the following documents to Lender duly executed:

(a) a Moral Obligation Agreement, in the form customarily used by the City of Danville, Virginia (the "City"), executed by or on behalf of the City, in support of the repayment of the Loan (the "Moral Obligation Agreement"); and

(b) an Agreement to Provide Insurance, Disbursement Authorization, and other documents customarily required for a loan of this nature.

2.3 Use of Loan Proceeds. The proceeds of the Loan which are the subject matter of this Agreement are being used by Borrower, in accordance with Section 15.2-4905(4) of the Code of Virginia, 1950, as amended (the "Code"), in connection with the extension and renewal of a loan related to the original acquisition, purchase and/or improvement of "Authority facilities", as defined in Section 15.2-4902 of the Code. The Note is payable by Borrower from its revenues and receipts generally, as permitted by Section 15.2-4908(A)(i) of the Code.

2.4 Interest on Loan. Interest shall accrue at the fixed rate of seven and 25/100 percent (7.25%), compounded monthly, from the date of the Note until the Note is paid in full. Interest will be charged and calculated on the basis of a three hundred sixty (360) day year and will be paid for the actual number of days elapsed. Principal and accrued interest shall be due and payable in fifty nine (59) consecutive equal monthly installments commencing on October 1, 2023, and continuing on the first day of each month thereafter, in an amount sufficient to fully amortize the unpaid balance of the Note over a period of sixty (60) months, with one (1) final payment of all outstanding principal, accrued interest and other charges, if not sooner paid, due and payable on September 1, 2028 (the "Maturity Date").

2.5 Modification Fee. Borrower will pay to Lender, in addition to any interest due under this Agreement, a modification fee in the amount of one-half percent (.50%) of the Loan Amount (the "Modification Fee"), which shall be due and payable at Closing. The Modification Fee shall be fully earned upon the acceptance of the commitment for the Loan, and shall not be subject to proration or rebate upon the termination of this Agreement.

2.6 Repayment. Borrower will make monthly payments as provided in the Note.

2.7 Prepayment. Borrower may prepay the Loan in whole or in part any time; provided, however, that any prepayment of the Loan shall include, without limitation, payment of all amounts payable by Borrower for early termination, adjustment, and settlement of the Swap Transactions, whether such prepayment is made as a result of acceleration of the Obligations, voluntary prepayment of all or a portion of the Obligations in connection with a refinancing, or otherwise. Any such prepayment of the Loan shall be applied to the principal installments thereof in the inverse order of their maturities.

SECTION 3
Collateral; Cross-Default

3.1 Deed of Trust on Property. The Obligations shall be secured by the Deed of Trust conveying a first priority lien on the Property. The Deed of Trust shall be in form and substance satisfactory to Lender.

3.2 Assignment of Rents. The Obligations shall also be secured by the Assignment of Leases which shall be in form and substance satisfactory to Lender.

3.3 Full Release of Collateral Upon Payment. Upon satisfaction by Borrower of all of the Obligations, Lender will release its security interest in the Collateral.

3.4 Cross-Default. The entire indebtedness and sums secured by the Deed of Trust shall become due and payable at the option of Lender immediately upon the occurrence of a default in the performance by Borrower, or its successor or assigns, of any of the terms, provisions, covenants, conditions, or agreements contained in the 979 Lockett Drive Deed of Trust, the note secured thereby, or any of the other documents or instruments executed in connection with the debt secured by the 979 Lockett Drive Deed of Trust.

SECTION 4
Advances

4.1 Advances. Any Advance under the Loan shall not be assignable by Borrower nor subject to the process of any Court upon legal action by or against Borrower or by or against anyone claiming under or through it, and for the purposes of this Agreement, the funds shall remain and be considered the money and property of Lender until Borrower complies with each and every provision of this Agreement; provided, however, that nothing herein contained shall be considered as modifying, affecting, or subordinating the obligations heretofore given or to be given by Borrower as security for the Loan, and the same shall be and remain in full force and effect.

4.2 Conditions Precedent to First and Only Advance. As conditions precedent to the first and only Advance hereunder, Borrower shall satisfy the following conditions:

(a) Fees and Expenses. Lender shall have received the Modification Fee from Borrower, and Borrower shall have paid all other fees, costs and expenses then required to be paid pursuant to this Agreement and any other Loan Documents.

(b) Financial Statements. Lender shall have received and approved the financial statements of Borrower or any other party required by any loan application or commitment or otherwise required by Lender.

(c) Authorization. Lender shall have received and approved evidence Lender requires of the existence and authority of Borrower to execute, deliver, and perform the Loan Documents, including documentation satisfactory to Lender identifying those person(s) with authority to execute the Loan Documents on behalf of Borrower.

(d) Loan Documents. Borrower and each other Person required by Lender shall have duly executed, recorded or filed, and delivered to Lender all Loan Documents then required by Lender, dated the date of this Agreement, all in form and substance satisfactory to Lender.

(e) Moral Obligation Agreement. Lender shall have received the Moral Obligation Agreement duly executed by the City of Danville, Virginia.

(f) Certificate of Extension of Deed of Trust. Lender shall have received a duly executed Certificate of Extension of Limitation of Right to Enforce Deed of Trust.

(g) Insurance Policies. Lender shall have received a copy of a casualty insurance policy, declaration pages, or certificate of insurance, covering the improvements on the Property in an amount not less than the full Loan Amount and naming Lender as a mortgagee loss payee, issued by an insurance company reasonably acceptable to Lender and with proof that the premium for such insurance has been paid in advance. Additionally, Lender shall have received from Borrower either (i) a flood insurance policy in an amount equal to the lesser of the maximum Loan amount or the maximum amount of flood insurance available under the Flood Disaster Protection Act of 1973, as amended, and otherwise in compliance with the requirements of the Loan Documents, or (ii) evidence satisfactory to Lender that none of the Land is located in a flood hazard area.

(h) Agreement to Provide Insurance. Lender shall have received an agreement to provide insurance, disbursement authorization, credit purpose certification and such other documents as may be customarily and reasonably required for a commercial loan of this type.

(i) Other Documents. Borrower shall have delivered to Lender, in form and substance satisfactory to Lender, such other documents and certificates as Lender may reasonably request, including but not limited to any reports, assessments, or other documents required as a condition to the Loan, in accordance with the provisions of the Commitment Letter.

4.3 Conditions and Waivers. All conditions precedent to the obligation of Lender to make any Advance are imposed hereby solely for the benefit of Lender, and no other party may require satisfaction of any such condition precedent or be entitled to assume that Lender will refuse to make any Advance in the absence of strict compliance with such conditions precedent. Any requirement of this Agreement may be waived, in whole or in part, in a specific written waiver intended for that purpose and signed by Lender. No Advance shall constitute a waiver of any condition precedent to any further Advance, or preclude Lender from thereafter declaring the failure of Borrower to satisfy such condition precedent to be an Event of Default. No waiver by Lender of any condition precedent or obligation shall preclude Lender from requiring such condition or obligation to be met prior to making any other Advance or from thereafter declaring the failure to satisfy such condition or obligation to be an Event of Default.

4.4 Cessation of Advances. Lender will have no obligation to make any Advances or disburse the proceeds of the Loan if: (a) Borrower or any other Person liable for the repayment of the Loan is in default under the terms of any agreement with Lender or any other creditor; (b) Borrower or any other Person liable for the repayment of the Loan becomes insolvent, files a petition in bankruptcy or is adjudged to be bankrupt; or (c) there is a material adverse change in Borrower's financial condition, in the financial condition of any other Person liable for the repayment of the Loan, or in the value of any property securing the Loan.

SECTION 5
Affirmative Covenants

Borrower covenants and agrees that between the date hereof and the date of the payment in full of all the principal, interest and other reasonable charges (including attorney's fees, if any) due under the Obligations, unless Lender shall otherwise consent in writing:

5.1 Inspection. Lender may enter upon the Property to inspect the Property at any reasonable time, provided that Lender gives reasonable advance notice to Borrower (except in the case of emergencies). Borrower will furnish to Lender at any time for inspection and copying all books and records, and other documents and information required by Lender.

5.2 Financial Records. Borrower shall provide to Lender annually, within one hundred-twenty (120) days following the end of the Borrower's fiscal year, audited financial statements for the preceding year, including all schedules, as set forth in the Commitment Letter. All financial statements, certificates, or other information furnished or to be furnished to Lender are, and shall be, true and accurate. Borrower will maintain at all times proper books of account and records in accordance with sound accounting principles.

5.3 Rent Rolls. Borrower shall provide to Lender annually, a copy of the rent rolls for all Borrower properties showing rents received.

5.4 Conduct of Business; Compliance with Law. Borrower shall conduct its business affairs in a reasonable and prudent manner. Borrower will comply with all Applicable Laws, and pay, promptly when due, all taxes, assessments, governmental charges, claims for labor, supplies, rent and other obligations except liabilities being contested in good faith and against which Borrower has set up reserves as required by sound accounting principles. Borrower will pay or cause to be paid when due all taxes, assessments, charges, or levies imposed upon the Property, except when any such taxes or assessments are contested in good faith by appropriate proceedings, with adequate reserves therefor having been set aside for the payment thereof by Borrower, upon appropriate determination of such liability.

5.5 Insurance. Borrower will continuously maintain insurance against such risks as are customarily insured against by businesses of like size and character, paying as the same become due all premiums in respect thereto. Borrower will maintain all risk and property damage insurance policies (including without limitation, windstorm damage and hurricane coverage as applicable) covering the tangible property comprising the Collateral. Each insurance policy must be in an amount acceptable to Lender. The insurance must be issued by an insurance company acceptable to Lender and must include a lender's loss payable endorsement in favor of Lender in a form acceptable to Lender. Such policies shall contain a provision that such policies cannot be cancelled except upon thirty (30) days' written notice to Lender. Borrower shall furnish to Lender such evidence of the existence of such insurance, and that such insurance remains in full force and effect, as Lender may reasonably require. Borrower agrees that, in the event it fails to pay when due any premiums for such insurance, Lender may, after notice to Borrower, reasonable under the circumstances, pay such premium (but shall not be obligated to do so) and on demand, Borrower shall reimburse Lender therefor.

5.6 Flood Insurance. If any portion of the Property is located in a flood plain, Borrower will furnish and maintain flood insurance as directed or requested by Lender, in a form reasonably acceptable to Lender and naming Lender as a mortgagee loss payee thereunder. At such times as Lender may request, Borrower shall provide evidence satisfactory to Lender that such flood insurance remains in full force and effect.

5.7 Material Change. Borrower shall promptly inform Lender in writing of any material change in Borrower's financial condition and of any litigation, claim, investigation, administrative proceeding, arbitration or other similar action which could materially affect the financial condition of Borrower.

5.8 Deposit Relationship. During the term of the Loan, Borrower will maintain its primary banking relationship with American National Bank and Trust Company. This provision shall not apply to any successor banking institution.

5.9 Payment of Indebtedness. Borrower shall pay and discharge when due all of its indebtedness and obligations imposed upon Borrower or its properties, income or profits, and all lawful claims that, if unpaid, might become a lien or charge on any of Borrower's properties, income or profits, except indebtedness or obligations being contested in good faith and against which Borrower has set up reserves as required by sound accounting principles. Borrower shall furnish evidence of payment to Lender upon request and shall authorize the appropriate government official to deliver information regarding such indebtedness or obligation upon request of Lender.

5.10 Environmental Studies; Hazardous Materials. Borrower shall promptly conduct and complete, at Borrower's expense, all environmental studies, inspections and tests as may be reasonably requested by Lender or any Governmental Authority, relative to any Hazardous Materials at or affecting any property or any facility owned, leased or used by Borrower. Borrower shall not use or permit any other party to use or place any Hazardous Materials (or similar term used under any applicable environmental laws) at or upon the Property, except such materials as are (i) incidental to tenant's business on the Property and/or any maintenance and repair of any improvements thereon, and which materials are handled, stored, and used in compliance with all applicable Environmental Laws, or (ii) are used in accordance with Environmental Laws. Borrower shall immediately advise Lender in writing of:

(a) Any and all enforcement, clean-up, remedial removal, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any applicable federal, state, or local laws, ordinances, or regulations relating to any Hazardous Materials affecting the Property or any business operations therefrom to the extent Borrower has or obtains knowledge or notice of the same; and

(b) All claims made or threatened by any third party against Borrower relating to damages, contributions, costs, recovery, compensation, loss, or injury resulting from the presence, storage, disposal, or release of any Hazardous Materials on or from the Property.

5.11 Notice of Event of Default. Borrower shall notify Lender as soon as reasonably practicable if Borrower becomes aware of the occurrence of any Event of Default.

SECTION 6
Negative Covenants of Borrower

Until payment in full of all principal and interest and other charges (including attorney's fees, if any) due under the Obligations, Borrower covenants that without the prior written consent of Lender, which consent shall not be unreasonably withheld:

6.1 Merger, Consolidation, Dissolution. Borrower shall not change its name or enter into any merger, consolidation, reorganization, or recapitalization, without the written consent of Lender

6.2 Indebtedness. Borrower will not sell, mortgage, or in any manner encumber the Property, or any part thereof, or permit or suffer to exist thereon any mortgage, lien, or encumbrances of any character (other than the lien of the Deed of Trust and the Permitted Encumbrances) and if such mortgage, lien, or encumbrances shall become effective in relation to the Property or any part thereof, Borrower will forthwith pay and discharge the same. Nothing herein shall be construed to prevent Borrower from leasing, or continuing to lease, all or any portion of the Property.

SECTION 7
Representations and Warranties

Borrower represents and warrants to Lender, and such representations and warranties shall be continuing so long as any Obligations shall remain outstanding as follows:

7.1 Formation and Authorization. Borrower is a political subdivision of the Commonwealth of Virginia, duly organized, validly existing, and in good standing under the laws of the Commonwealth of Virginia, and is authorized to transact business in all jurisdictions in which Borrower currently conducts any material business. Borrower has been duly authorized to enter into the Note, this Agreement, and any other Loan Documents to be executed by Borrower. This Agreement, the transactions contemplated herein, and the other Loan Documents to be executed by Borrower have been approved by all necessary action by Borrower; and the persons executing this Agreement and any of the Loan Documents contemplated to be executed by Borrower have full and complete authority to execute and deliver the same for and on behalf of Borrower.

7.2 Enforceability. This Agreement, the Note and each of the other Loan Documents to which Borrower is a party constitute the valid and legally binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by equitable principles.

7.3 No Violation. The execution and delivery by each Borrower of this Agreement, the Note and each of the other Loan Documents to which Borrower is a party are not, and the performance by Borrower of its obligations under each, do not and will not contravene any law, governmental rule or regulation, judgment or order applicable to it, and do not and will not contravene any provision of, or constitute a default under, any indenture, mortgage, contract or other instrument to which Borrower is a party or by which it is bound or require the consent or approval of, the giving of notice to, the registration with or the taking of any action in respect of or by, any Federal, state or local governmental authority or agency or other Person, except such as have been duly obtained, given or accomplished and copies of which have been delivered to Lender.

7.4 Collateral Free of Encumbrances. Borrower has not previously assigned, encumbered or mortgaged any Collateral, and the Collateral is not subject to a prior security interest or lien in favor of any person other than Lender, that has not previously expired or been terminated or released. Borrower will defend the Collateral against all claims and demands of all persons at any time claiming any interest therein. No financing statement describing the Collateral or any part thereof, or covering any proceeds of the Collateral, that has not previously expired or been terminated or released, is on file in any public office except those in favor of Lender.

7.5 Litigation. There is no material litigation or proceeding (administrative or otherwise) pending against or affecting Borrower or the Property nor does Borrower have any knowledge of any threatened litigation, which, if decided adversely to Borrower, would or will have a material adverse effect upon the business or financial condition of Borrower or the Property.

7.6 Taxes. Borrower has filed, and at all relevant times will file, all Federal, State and local tax returns required to be filed by them and have paid, and will pay, all taxes as shown on such returns as they become due.

7.7 Defaults. Borrower is not in default hereunder or under any agreement to which it is a party or by which it is bound, which default would have a material adverse effect on the business operations or financial condition of Borrower.

7.8 Financial Statements. All financial and other information that has been or will be provided to Lender is sufficiently complete to give Lender accurate knowledge of Borrower's financial condition, including all material contingent liabilities. Since the date of the most recent financial statement provided to Lender, there has been no material adverse change in the business condition (financial or otherwise), operations, properties or prospects of Borrower.

7.9 Permits. Borrower possesses all permits, memberships, franchises, contracts and licenses required and all trademark rights, trade name rights, patent rights, copyrights, and fictitious name rights necessary to enable Borrower to conduct the business in which it is now engaged.

7.10 Material Adverse Change. There has been no material adverse change in the financial condition, operations, business, properties or prospects of Borrower from that reflected in the most recent financial statements of Borrower delivered to Lender.

7.11 Environmental Matters. To the best of Borrowers knowledge and except as previously disclosed to Lender in writing, the Property has not been involved with activities related to the release, use, manufacture, generation, treatment, storage or disposal of Hazardous Materials or in violation of any Environmental Laws. Borrower authorizes Lender to enter upon the Property, make such inspections as Lender may deem appropriate to determine compliance of the Property with this Section of this Agreement. Borrower hereby (i) releases and waives any future claims against Lender for indemnity or contribution in the event Borrower becomes liable for cleanup or other cost under such Environmental Laws, unless such arises out of the gross negligence or willful misconduct of Lender and (ii) agrees to indemnify and hold Lender harmless against any and all claims, losses, liabilities, damages, penalties and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this Section 7.11 or as a consequence of any environmental activity occurring prior to Borrower's interest in the Property.

7.12 Compliance with Law. To the best of Borrower's knowledge, the Land and Improvements comply with all Applicable Laws, including all subdivision and platting requirements, without reliance on any adjoining or neighboring property; and the current or anticipated use of the Property complies with applicable zoning ordinances, regulations and restrictive covenants affecting the Land, and all use requirements of any Governmental Authority have been satisfied.

7.13 Title to Properties. To the best of Borrower's knowledge, except as has been previously disclosed to Lender in writing, Borrower owns and has good title, in Borrower's legal name, to all of Borrower's properties, free and clear of all security interests, and has not executed any security documents or financing statements relating to such properties except consistent with provisions of this Agreement.

7.14 Business Purpose. Borrower intends to use the proceeds of the Loan solely for business or commercial purposes.

SECTION 8
Default

8.1 Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

(a) Failure by Borrower or any other obligated party to pay when due any payment of interest, principal, principal and interest, commitment fees, deposits, or other payments which are due and payable under the Note, the Commitment Letter, the Loan Documents, or any other document executed in connection therewith or as security therefor, if such failure continues for ten (10) business days after written notice to Borrower that such payment is overdue.

(b) Borrower shall fail to observe or perform any other covenant or condition contained in this Agreement or any of the Loan Documents and such failure shall continue for a period of thirty (30) days after written notice thereof shall have been given by Lender to Borrower, specifying such failure and requiring it to be remedied.

(c) Any warranty, representation or financial statement made or furnished to Lender by or on behalf of Borrower proves to have been materially incorrect, false, inaccurate or misleading in any material respect when made or furnished, or becomes false or misleading at any time thereafter.

(d) Borrower or any other person liable to Lender for repayment of the Loan defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or Person, that, in Lender's reasonable opinion, may materially affect any of Borrower's property or Borrower's or any other Person's ability to repay the Loan or perform their respective obligations under this Agreement, or any other Loan Documents.

(e) Any material loss, theft, substantial damage, destruction, sale or encumbrance to or of the Property (other than any loss which is adequately covered by insurance or transactions in the ordinary course of business or any encumbrance expressly permitted by this

Agreement), or the making of any levy, seizure, or attachment thereof or thereon which would have a material adverse effect on the business operations of Borrower and such proceeding is not dismissed or stayed within 45 days.

(f) Any judgment for the payment of money which, in the reasonable opinion of Lender, is in an amount material to the financial condition of Borrower and is not adequately insured or indemnified against.

(g) Borrower (i) files a petition or has a petition filed against it under the Bankruptcy Code or any proceeding for the relief of insolvent debtors which is not dismissed within sixty (60) days; (ii) benefits from or is subject to the entry of an order for relief by any court of insolvency; (iii) makes an admission of insolvency seeking the relief provided in the Bankruptcy Code or any other insolvency law; (iv) makes an assignment for the benefit of creditors; (v) has a receiver appointed, voluntarily or otherwise, for its property; (vi) permits a judgment in the amount of $50,000.00 or more to be obtained against it, which is not promptly paid or promptly appealed and secured pending appeal; or (vii) becomes insolvent, however otherwise evidenced.

(h) The occurrence of any event or condition which constitutes a material adverse change in the business, financial condition or results of operations of Borrower for the repayment of the Obligations.

(i) A lien for the performance of work or the supply of materials which is established against the Property remains unsatisfied or unbonded for a period of twenty (20) days after the date of filing.

(j) Any failure by Borrower to observe or perform any term, covenant, condition or agreement contained in any of the Loan Documents or the 979 Lockett Drive Deed of Trust, the note secured thereby, or any of the other documents or instruments executed in connection with the debt secured by the 979 Lockett Drive Deed of Trust.

Should Lender elect not to exercise such option to accelerate on the occurrence of an Event of Default, the same shall not be construed as a waiver of such right, and the cause of action on all amounts due and payable under the Note or other Loan Documents shall accrue on the day following the Maturity Date. Should the option be exercised, the cause of action shall be deemed to accrue on the day following such exercise. Lender may exercise its option to accelerate during any Event of Default by Borrower regardless of any prior forbearance but subject to the notice requirements to Borrower set forth in the Loan Documents.

8.2 Remedies. Upon the occurrence of any Event of Default under this Agreement, the obligation of Lender to make Advances to Borrower under the Loan shall cease, and Lender may declare all of the Obligations immediately due and payable without notice, protest, presentment or demand, all of which are hereby expressly waived by Borrower. Upon the occurrence of any Event of Default, Lender may also, at its election, but without any obligation to do so, without notice, do any one or more of the following:

(a) terminate its commitment to lend;

(b) reduce any claim to judgment;

(c) exercise any and all rights and remedies afforded by this Agreement, the other Loan Documents, law, equity or otherwise; or

(d) set-off and apply, to the extent thereof and to the maximum extent permitted by law, any and all deposits, funds, or assets at any time held and any and all other indebtedness at any time owing by Lender to or for the credit or account of Borrower against any Obligations.

8.3 Enforcement by Lender. Lender shall have the right at all times to enforce the provisions of this Agreement and the other Loan Documents in strict accordance with the terms hereof and thereof, notwithstanding any conduct or custom on the part of Lender in refraining from so doing at any time or times. The failure of Lender at any time or times to enforce its rights under any Loan Document shall not be construed as having in any way or manner modified or waived the right of Lender to enforce any and all Loan Documents in accordance with their terms. All rights and remedies of Lender are cumulative and concurring, and the exercise of any right or remedy shall not be deemed a waiver or release of any other right or remedy available to Lender.

SECTION 9
Termination

Borrower and Lender agree that this Agreement shall continue in effect until all Obligations due by Borrower to Lender under the terms of this Agreement shall have been paid and satisfied in full.

SECTION 10
Miscellaneous

10.1 Nature of Rights. Each and every right granted to Lender hereunder or under any other document delivered hereunder or in connection herewith or allowed it by law or equity shall be cumulative and may be exercised from time to time. No failure on the part of Lender to exercise, and no delay in exercising, any right shall operate as a waiver thereof, nor shall any single or partial exercise by Lender of any right preclude any other or future exercise thereof or the exercise of any other right.

10.2 Assignability. Borrower may not assign or in any way transfer its rights and obligations under this Agreement without the prior written consent of Lender.

10.3 Modification of Agreement. This Agreement may not be modified, altered or amended except in a writing executed by Borrower and Lender.

10.4 Further Assurances. Borrower agrees that at any time and from time to time upon the reasonable written request of Lender, Borrower will execute and deliver such further documents and do such further acts and things as Lender may reasonably request in order to effect the purposes of this Agreement.

10.5 Time of the Essence. Time shall be of the essence with respect to Borrower's obligations under the Loan Documents.

10.6 Successors and Assigns. This Agreement shall be binding upon Borrower, and Borrower's heirs, devisees, representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns, provided, however, that Borrower shall not assign or encumber any interest of Borrower hereunder without the prior written consent of Lender. Lender may disseminate any information it has pertaining to the Loan, Property, and Borrower, to any actual or prospective assignee or participant or to prospective contractual counterparties (or their professional advisors). Borrower shall execute, acknowledge, and deliver any and all instruments reasonably requested by Lender or such assignee, participant or contractual counterparties.

10.7 Records. The unpaid amount of the Loan set forth on the books and records of Lender maintained in the ordinary course of its business shall be presumptive evidence of the amount thereof owing and unpaid, but failure to record any such amount on the books and records shall not limit or affect the obligations of Borrower under the Loan Documents to make payments on the Loan when due.

10.8 Notices. All notices or demands to a party shall be in writing and shall be deemed to have been duly and sufficiently given for all purposes when delivered (i) by personal delivery and shall be deemed effective when delivered, or (ii) by mail or courier and shall be deemed effective three (3) business days after deposit in an official depository maintained by the United States Post Office for the collection of mail or one (1) business day after delivery to a nationally recognized overnight courier service (e.g., Federal Express). Notice by e-mail is not valid notice under this or any other agreement between Borrower and Lender:

If to Lender:
American National Bank and Trust Company
628 Main Street
Danville, VA 24541
Attention: President

If to Borrower:
Industrial Development Authority of
Danville, Virginia
421 Municipal Building (24541)
P. O. Box 3300 (24543)
Danville, VA

With a copy to City Attorney:
The City Attorney's Office
P. O. Box 3300
Danville, VA 24543

Any notice or other communication so given shall constitute valid notice under this Agreement and shall be deemed to have been received (i) on the day of actual delivery in the case of personal delivery, (ii) on the next Business Day after the date when sent in the case of delivery by nationally recognized overnight courier, (iii) on the third Business Day after the date of deposit in the U.S. mail in the case of mailing, and (iv) upon receipt in the case of facsimile transmission. Any party may change the person and addresses to which notices or other communications are to be sent to it by giving written notice of any such change in the manner provided herein for giving notice.

10.9 Severability. Wherever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

10.10 Indemnity. Borrower agrees to indemnify Lender from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, or expenses of any kind or nature whatsoever (including, without limitation, reasonable attorney's fees) which may be imposed on, incurred by, or asserted against Lender in any litigation, proceeding or investigation instituted or conducted by any governmental agency or instrumentality or any other Person with respect to any aspect of, or any transaction contemplated by, or referred to in, or any matter related to, this Agreement, except to the extent that any of the foregoing arises out of the gross negligence or willful misconduct of Lender. The foregoing indemnity shall survive the repayment of the Obligations and the termination of this Agreement. All amounts due under this paragraph shall be payable on written demand therefor.

10.11 Expenses. Borrower agrees to pay all reasonable expenses incurred by Lender in connection with the arrangement of the credit facilities hereunder, and the preparation and administration of this Agreement (whether or not the transactions contemplated hereby shall be consummated), including without limitation, (i) reasonable attorney's fees; (ii) appraisal and survey costs; (iii) title insurance costs and premiums; (iv) title search or examination costs, including Uniform Commercial Code searches; (v) fees and costs of environmental investigations and site assessments; and (vi) filing and recordation fees and taxes. Borrower shall be liable for, and agrees to pay Lender any and all reasonable expenses incurred or paid by Lender in protecting or enforcing its rights under this Agreement, including reasonable attorney's fees and legal expenses. At its option, Lender may discharge taxes, liens, security interests or other encumbrances on the Property and may pay for the maintenance and preservation of the Property and for insurance thereon. Borrower agrees to reimburse Lender on demand for any payments so made, and until such reimbursement, the amount of any such payment, with interest at the rate provided in Section 2.4 of this Agreement from date of payment until reimbursement, shall be added to the Obligations owed by Borrower under the Loan and shall be secured by this Agreement.

10.12 Governing Law. This Agreement is entered into and shall be construed under the laws of the Commonwealth of Virginia (without giving effect to principles of conflicts of laws), and if legal action by either party is necessary for or with respect to the enforcement of any or all of the terms and conditions hereof, then exclusive venue therefore shall lie in the City of Danville, Virginia.

10.13 Binding Effect. The terms of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

10.14 Headings. The titles and section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.

10.15 Limitation on Benefits. Nothing in this Agreement, whether express or implied, shall be construed to give any Person other than Borrower and Lender any legal or equitable right, remedy or claim under or in respect of this Agreement or any Note.

10.16 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement (or of any agreement or document required by this Agreement and any amendment to this Agreement) by telecopy or other electronic imaging means shall be as effective as delivery of a manually executed counterpart of this Agreement; provided, however, that the telecopy or other electronic image shall be promptly followed by an original if required by Lender.

10.17 Entire Agreement. This Agreement and the other Loan Documents contain the entire agreement of the parties and supersede all prior agreements among the parties with respect to the subject matter hereof, including, but not limited to, the commitment letter concerning this credit. The parties agree that the Commitment Letter is incorporated in and made a part of this Agreement, provided, however, that in the event of any conflict between the terms of the Commitment Letter and this Agreement, or any other Loan Documents, the provisions of this Agreement or any other Loan Documents shall control.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed under seal as of the date above first written.

BORROWER:

INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia

By:______________________________________
T. Neal Morris, Chairman

LENDER:

AMERICAN NATIONAL BANK AND TRUST COMPANY, a national banking association

By:______________________________________
Ted R. Laws, Senior Vice President

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY OF DANVILLE, to-wit:

The foregoing instrument was acknowledged before me in my jurisdiction aforesaid on this _____ day of August, 2023, by T. Neal Morris, acting in his capacity as Chairman of the INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia.

____
Notary Public

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY OF DANVILLE, to-wit:

The foregoing instrument was acknowledged before me in my jurisdiction aforesaid on this _____ day of August, 2023, by Ted R. Laws, acting in his capacity as Senior Vice President of AMERICAN NATIONAL BANK AND TRUST COMPANY, a national banking association.

____
Notary Public

PROMISSORY NOTE

Danville, Virginia
$569,958.34 **August 25, 2023**

FOR VALUE RECEIVED, the undersigned, the **INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia ("**Borrower**"), promises to pay to the order of **AMERICAN NATIONAL BANK AND TRUST COMPANY**, a national banking association ("**Lender**"), at 628 Main Street, Danville, Virginia 24541, or such other place as the Lender shall designate to the Borrower in writing the principal sum of **FIVE HUNDRED SIXTY NINE THOUSAND NINE HUNDRED FIFTY EIGHT AND 34/100 DOLLARS** ($569,958.34), together with interest thereon at the rate or rates per annum designated herein computed on the basis of a 360-day year (366-day for a leap year) for the actual number of days in each interest period, pursuant to the Loan Agreement of even date herewith (the "**Loan Agreement**") by and among, the Borrower and the Lender. All capitalized terms used and not defined herein shall have the meaning set forth in the Loan Agreement. This Amended and Restated Promissory Note (this "**Note**") is made pursuant to the Loan Agreement and is given in replacement of and in substitution for, but not in payment of, a prior note dated on or about August 16, 2018 in the original principal amount of $753,032.32, given by Borrower in favor of the Lender (or its predecessor-in-interest), as the same may have been amended or modified from time to time (the "**Original Note**"), in its entirety.

1. Interest Rate: This Note shall bear interest from the date hereof at a fixed rate per annum equal to seven and 25/100 percent (7.25%), compounded monthly.

2. Repayment Terms: This Note shall be paid in fifty nine (59) equal consecutive monthly installments of principal and interest in the amount of $6,721.18 each, beginning October 1, 2023, and continuing on the first day of each month thereafter, in an amount sufficient to fully amortize the unpaid balance of the Note over a period of one hundred twenty (120) months, with one (1) final payment of all outstanding principal, accrued interest, and other charges, if not sooner paid, due and payable on September 1, 2028 (the "**Maturity Date**").

3. Loan Proceeds: The loan proceeds evidenced by this Note are being used by Borrower, in accordance with Section 15.2-4905(4) of the Code of Virginia, 1950, as amended (the "Code"), in connection with the extension and renewal of a loan related to the original acquisition, purchase, and/or improvement of "authority facilities", as defined in Section 15.2-4902 of the Code. The Note is payable by Borrower from its revenues and receipts generally, as permitted by Section 15.2-4908(A)(i) of the Code.

4. Borrower Representations and Warranties: Borrower hereby represents and warrants to Lender as follows:

   (a) Borrower is a political subdivision of the Commonwealth of Virginia, duly organized, validly existing, and in good standing under the laws of the

Commonwealth of Virginia and is authorized to transact business in all jurisdictions in which Borrower currently conducts any business.

(b) Borrower has been duly authorized to enter into this Note, the Security Documents, the Loan Agreement and any other documents to be executed by Borrower in connection herewith and therewith.

(c) This Note, the Security Documents, the Loan Agreement, and the transactions contemplated herein and therein, have been approved by all necessary action of the governing body of Borrower; and the persons executing this Note and Loan Agreement have full and complete authority to execute and deliver the same for and on behalf of Borrower.

(d) The execution, delivery, and performance of this Note, the Security Documents, and the Loan Agreement, and the consummation of the transactions contemplated hereby and thereby by Borrower, will not violate, conflict with, or result in any default under, or cause any acceleration of any obligation under (i) any existing contract, agreement, note, or other documents to which Borrower is a party or by which Borrower is bound; (ii) any orders, decrees, or laws of any jurisdiction application to and binding upon Borrower; or (iii) any of the governing documents of Borrower.

(e) This Note, the Security Documents, and the Loan Agreement each constitute the legal, valid, binding, and enforceable obligations of Borrower in accordance with the terms contained herein or therein.

5. Application of Payments: All payments made on this Note or any prepayment made in accordance with the terms hereof shall be applied, to the extent thereof, first to late charges, second to any costs, expenses, fees or other charges due and unpaid to Lender under this Note or any other document securing this Note, third to accrued but unpaid interest, and lastly to unpaid principal. Acceptance by Lender of any payment in an amount less than the amount then due on any indebtedness shall be deemed an acceptance on account only and shall not in any way excuse the existence of an Event of Default.

6. Prepayment: The Borrower shall have the privilege to prepay the principal and any accrued but unpaid interest, in full or in part at anytime without penalty or premium; Early payments will not, unless agreed to in writing by Lender, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse" or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. Any prepayment shall be applied in the manner provided herein, except that any amount thereof applied to reduction of outstanding principal shall be applied to installments of principal in inverse order of maturities.

7. Late Charge on Default: Time is of the essence of this Note. To the extent not prohibited by law, a late charge of five percent (5%) or the applicable statutory maximum, whichever is greater, shall be assessed on any installment, whether of principal or interest, remaining past due for ten (10) days or more.

8. Increased Costs: If the Lender shall determine that, due to either (a) the introduction of any change in (or in the interpretation of) any requirement of law or (b) compliance with any guideline or request from any central bank or other governmental or regulatory authority (whether or not having the force of law), there shall be any increase in the cost to the Lender of agreeing to make or making, funding or maintaining any loans hereunder, then Lender shall be liable for, and shall from time to time, upon demand therefor by the Lender, pay to the Lender such additional amounts as are sufficient to compensate the Lender for such increased costs.

9. Collateral; Cross-Default; Moral Obligation:

(a) This Note is secured by: (i) that certain Credit Line Deed of Trust dated April 30, 2013, executed by Borrower and recorded in the Clerk's Office of the Circuit Court of Danville, Virginia ("**Clerk's Office**") on May 1, 2013 as Instrument No. 13-1581 (the "**Deed of Trust**"), encumbering real estate known as 527 Bridge Street (Tax PIN 21487 and 26821), and improvements thereon, located in the City of Danville, Virginia (the "**Property**"); and (ii) that certain Assignment of Rents dated April 30, 2013, executed by Borrower and recorded in the Clerk's Office on May 1, 2013 as Instrument No. 13-1582 (the "**Assignment of Rents**").

(b) This Note is cross-defaulted with (i) that certain Credit Line Deed of Trust dated September 16, 2013, executed by Borrower and recorded in the Clerk's Office on September 17, 2013 as Instrument No. 13-3770 (the " **Cross- Collateralized Deed of Trust**"), encumbering real estate known as 979 Lockett Drive (formerly referred to as 979 and 1000 Lockett Drive) (Tax PINs 75918, 78267, and 78545), and improvements thereon, located in the City of Danville, Virginia and (ii) that certain Assignment of Rents dated September 16, 2013, executed by Borrower and recorded in the Clerk's Office as Instrument No. 13-3771 (the "**Cross-Collateralized Assignment of Rents**").

(c) The Deed of Trust, Assignment of Rents, Cross-Collateralized Deed of Trust, and the Cross-Collateralized Assignment of Rents are collectively referred to herein as the "**Security Documents**".

(d) This Note and any and all other related documents are executed and delivered by Borrower to Lender in accordance with and subject to the terms and conditions of the Loan Agreement, and the related loan commitment letter dated July 26, 2023 (the "**Commitment Letter**").

(e) Additionally, the City of Danville, Virginia, in support of the loan evidenced by this Note, has entered into that certain Moral Obligation Agreement (the "**Moral Obligation Agreement**") with respect to this loan.

(f) Reference is here made to the Security Documents, the Loan Agreement, Moral Obligation Agreement, and related documents for a more particular description of the Property and collateral pledged and assigned and the provisions with respect to the nature and extent of the security for this Note, the rights, duties and obligations of Borrower and the rights of Lender with respect thereto.

10. Events of Default; Acceleration: Following an Event of Default (as hereafter defined), Lender may at its option declare the entire principal balance and all accrued interest hereon to be immediately due and payable. It shall be an event of default ("Event of Default") under this Note if any one or more of the following occurs:

(a) failure by Borrower or any other obligated party to pay when due any payment of interest, principal, principal and interest, commitment fees, deposits, or other payments which are due and payable under this Note, the Security Documents, Loan Agreement or any other document executed in connection therewith or as security therefor, if such failure continues for ten (10) days after written notice to Borrower that such payment is overdue;

(b) failure by Borrower or any other party (other than Lender) to keep, perform or observe any covenant, term or condition required to be kept, performed or observed by Borrower or such party under this Note, the Security Documents, the Loan Agreement, or any other document executed in connection therewith or as security therefor, if such failure continues for thirty (30) days after written notice to Borrower of such failure;

(c) if Borrower (i) files a petition or has a petition filed against it under the Bankruptcy Code or any proceeding for the relief of insolvent debtors; (ii) benefits from or is subject to the entry of an order for relief by any court of insolvency; (iii) makes an admission of insolvency seeking the relief provided in the Bankruptcy Code or any other insolvency law; (iv) makes an assignment for the benefit of creditors; (v) has a receiver appointed, voluntarily or otherwise, for its property; (vi) permits a judgment in the amount of $25,000.00 or more to be obtained against it, which is not promptly paid or promptly appealed and secured pending appeal; or (vii) becomes insolvent, however otherwise evidenced;

(d) if any material representation, warranty or certificate given by Borrower herein or in connection with the loan evidenced by this Note or at any time hereafter required to be given by Borrower hereunder shall be false or erroneous in any material respect when made if not corrected or remedied within thirty (30) days after written notice to Borrower; or

(e) a material breach of or a material failure of performance by Borrower of any provision of or the occurrence of any default under the terms and provisions of the Loan Agreement, the Security Documents, the or any document executed in conjunction with this Note, if such breach or failure continues for thirty (30) days after written notice to Borrower of such breach or failure.

As soon as possible and in any event within two days after Borrower becomes aware that an Event of Default has occurred, Borrower shall notify the Lender in writing of the nature and extent of such Event of Default and the action, if any, it has taken or proposes to take with respect to such Event of Default.

Upon the occurrence of an Event of Default (subject to any rights to cure such default) (i) the remaining unpaid principal of this Note and all accrued and unpaid interest thereon shall immediately become due and payable, at the option of the holder hereof, and (ii) the holder of this Note shall be entitled to interest on the unpaid balance of this Note at the interest rate stated herein plus six percent (6%), unless otherwise required by law, until paid in full. The Lender shall be entitled to recover all expenses, including reasonable attorneys' fees and expenses of legal counsel, incurred by the Lender in any way arising from or relating to the enforcement or attempted enforcement of this Note, the Loan Agreement, and/or any other guaranty of the obligations under this Note and the collection or attempted collection, whether by litigation or otherwise, of this Note, the Loan Agreement, and/or any other guaranty of the obligations under this Note. Failure to exercise this option in the Event of Default shall not constitute a waiver of the right to exercise the same in any subsequent Event of Default.

THIS PROMISSORY NOTE IS CROSS-DEFAULTED WITH THAT CERTAIN PROMISSORY NOTE OF EVEN DATE IN THE PRINCIPAL AMOUNT OF 980,853.91 EXECUTED BY THE UNDERSIGNED IN FAVOR OF LENDER ("979 LOCKETT DRIVE NOTE"), TOGETHER WITH ALL OTHER PROMISSORY NOTES NOW OR HEREAFTER EXECUTED BY THE UNDERSIGNED IN FAVOR OF LENDER. THE OCCURRENCE OF A DEFAULT UNDER THIS NOTE, THE 979 LOCKETT DRIVE NOTE, OR ANY OTHER PROMISSORY NOTE EXECUTED BY THE UNDERSIGNED IN FAVOR OF LENDER, WHETHER NOW IN EXISTENCE OR HEREAFTER CREATED, SHALL BE AND CONSTITUTE A DEFAULT UNDER ALL SUCH PROMISSORY NOTES, ENTITLING LENDER TO ALL REMEDIES CONTAINED HEREIN, THEREIN AND IN ALL OTHER LOAN DOCUMENTS AND UNDER VIRGINIA LAW.

11. Governing Law; Changes: THIS NOTE MAY NOT BE CHANGED ORALLY AND SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF VIRGINIA WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. This Note has been accepted by Lender in the Commonwealth of Virginia. Borrower submits (and waives all rights to object) to exclusive personal jurisdiction in the Commonwealth of Virginia, and venue in the City of Danville, for the enforcement of any and all obligations under this Note. **To the fullest extent permitted by applicable law, Borrower hereby waives the right to trial by jury in any action, suit, counterclaim or proceeding arising out of or related to this Note or the obligations evidenced thereby.**

12. Note Subject to Agreement. This Note is made pursuant to the Loan Agreement, and is subject to, among other things, acceleration as provided therein; provided, however, neither this reference to the Loan Agreement nor any provision thereof shall affect or impair the obligation of the undersigned to pay the principal of and interest on this Note as herein provided. Lender

shall have all of the rights and powers set forth in the Loan Agreement as though they were fully set forth herein.

13. Creditor Rights. The rights and remedies of Lender in and under this Note, or at law or in equity, shall be cumulative and concurrent and may be pursued singly, successively or together, in Lender's sole discretion. The rights and remedies herein provided shall not be exclusive of any other rights or remedies provided by law or set forth in the Loan Agreement, and Lender shall be entitled to any and all rights and remedies hereunder, under the Loan Agreement and/or under applicable law.

14. Waiver of Presentment, Dishonor, Notice of Dishonor, and Protest. Presentment for payment, demand, protest and notice of demand, protest and nonpayment and all other notices are hereby waived by the Borrower. The Borrower hereby further waives and renounces, to the fullest extent permitted by law, all rights to the benefits of any moratorium, reinstatement, marshaling, forbearance, valuation, stay, extension, redemption, appraisement, exemption and homestead now or hereafter provided by the Constitution and laws of the United States of America and of each state thereof both as to itself and in and to all of its property against the enforcement and collection of the obligations evidenced by this Note.

15. No Waiver of Lender's Rights; Amendment. No failure to accelerate the indebtedness evidenced hereby by reason of default hereunder, acceptance of a partial or past due payment, or indulgences granted from time to time shall be construed (a) as a novation of this Note or as a reinstatement of the indebtedness evidenced hereby or as a waiver of such right of acceleration or of the right of Lender thereafter to insist upon strict compliance with the terms of this Note, or (b) to prevent the exercise of such right of acceleration or any other right granted hereunder or by any applicable laws; and the Borrower hereby expressly waives the benefit of any statute or rule of law or equity now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the foregoing. No waiver by Lender of any Event of Default shall be deemed a continuing waiver, and no delay or refusal to act by Lender shall constitute a waiver, election, or acquiescence by it. No amendment or renewal of this Note or extension of time for the payment of this Note or any installment due hereunder made by agreement with any person now or hereafter liable for the payment of this Note shall operate to release, discharge, modify, change or affect the original liability of Borrower under this Note, either in whole or in part, unless Lender agrees otherwise in writing. This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

16. Payments Not to Violate Law: Nothing herein contained nor any transaction related thereto shall be construed or so operate as to require the Borrower to pay interest at a rate greater than it is now lawful in such case to contract for under applicable law, or to make any payment or to do any act contrary to applicable law, and the Lender shall reimburse the Borrower for any interest paid in excess of the highest rate allowed by applicable law or any other payment which may inadvertently be required by the Lender to be paid contrary to applicable law; and if any clauses or provisions herein contained operate or would prospectively operate to invalidate this Note, in whole or in part, then such clauses and provisions only shall be held for naught, as though

not herein contained, and the remainder of this Note shall remain operative and in full force and effect.

17. Notices: All notices or demands to a party shall be in writing. Notices or demands shall be deemed to have been duly given (a) when personally delivered, (b) ten (10) business days after mailed by first class mail, postage prepaid, addressed as follows (to the extent applicable for mailing), or (c) the next "Business Day" (as hereafter defined) after sent by regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, addressed as follows (to the extent applicable for overnight delivery):

If to Borrower: Industrial Development Authority of Danville, Virginia
c/o City Attorney
421 Municipal Building (24541)
P.O. Box 3300 (24543)
Danville, Virginia

With a Copy to: City Attorney
The City Attorney's Office
P. O. Box 3300
Danville, Virginia 24543

If to Noteholder: American National Bank and Trust Company
628 Main Street
Danville, Virginia 24541
Attention: President

Any party may change the address to which notices hereunder are to be sent to it by giving written notice of such change, in the manner herein provided, to all other parties. A notice given hereunder may be delivered by hand delivery, deposited with the United States Postal Service properly addressed and postage prepaid, or delivery to a courier service properly addressed with all charges prepaid, as appropriate. For the purposes of this Agreement, "Business Day" shall mean any day other than a Saturday, Sunday or legal holiday in the Commonwealth of Virginia or observed by the City of Danville, Virginia.

18. Amended and Restated Note: Borrower acknowledges, agrees and understands that this Note is given in replacement of and in substitution for, but not in payment of, the Original Note, and further, that: (a) the obligations of Borrower as evidenced by the Original Note shall continue in full force and effect, as amended and restated by this Note, all of such obligations being hereby ratified and confirmed by Borrower; (b) any and all liens, pledges, assignments and security interests securing Borrower's obligations under the Original Note shall continue in full force and effect, are hereby ratified and confirmed by Borrower, and are hereby acknowledged by Borrower to secure, among other things, all of Borrower's obligations to the Lender under this Note, with the same priority, operation and effect as that relating to the obligations under the Original Note; and (c) nothing herein contained shall be construed to extinguish, release, or discharge, or constitute, create, or effect a novation of, or an agreement to extinguish, the obligations of

Borrower with respect to the indebtedness originally described in the Original Note or any of the liens, pledges, assignments and security interests securing such obligations.

19. Miscellaneous: This Note, together with any related loan and collateral agreements and guaranties, contains the entire agreement between the Lender and Borrower with respect to the Note, and supersedes every course of dealing, other conduct, oral agreement and representation previously made by the Lender. All rights and remedies of the Lender under applicable law and this Note or amendment of any provision of this Note are cumulative and not exclusive. Borrower agrees that in any legal proceeding, a copy of this Note kept in the Lender's course of business may be admitted into evidence as an original. As used herein, the terms "Borrower" and "Lender" shall be deemed to include their respective successors, legal representatives and assigns, whether by voluntary action of the parties or by operation of law. This Note is a binding obligation enforceable against Borrower and its successors and assigns and shall inure to the benefit of the Bank and its successors and assigns. Singular number includes plural and neuter gender includes masculine and feminine as appropriate. Upon the request of the Lender, Borrower shall execute and deliver such further instruments and do or cause to be done such further acts as may be necessary or advisable to carry out the intent and purposes of this Note and the Loan Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Note has been executed under seal as of the day and year first above written.

INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia

By: ______________________________________
T. Neal Morris, Chairman

COMMONWEALTH OF VIRGINIA, AT LARGE

CITY OF DANVILLE, to-wit:

The foregoing instrument was acknowledged before me in my jurisdiction aforesaid on this _____ day of August, 2023, by T. Neal Morris in his capacity as Chairman of **INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA,** a political subdivision of the Commonwealth of Virginia.

My commission expires:______________________________.

Registration No.__________________

____
Notary Public

Industrial Development Authority

STAFF REPORT

DATE: August 8, 2023

TO: Industrial Development Authority

FROM: Kelvin Perry, Assistant Director of Economic Development and Tourism

RE: Final Commitment Letter to Danville Industrial Development Authority from American National Bank to refinance 979 Lockett Drive

Request approval to execute the final commitment letter from American National Bank to Danville Industrial Development Authority to renew an existing loan in amount not to exceed $976,330.11. The loan is secured by property located at 979 Lockett Drive and cross-collateralized by property located at 527 Bridge Street, Danville, Virginia.

ATTACHMENTS

1. 748 _ 2023-08-08 RES Execute Commit Letter with ANB Loan Renewal 979 Lockett Dr
2. Commitment Letter D IDA $976M renewal Lockett 7-26-23 (TMP Revisions)

PRESENTED: August 8, 2023

ADOPTED: August 8, 2023

RESOLUTION NO. 2023-____.____

A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO EXECUTE THE ATTACHED LOAN RENEWAL COMMITMENT LETTER WITH AMERICAN NATIONAL BANK AND TRUST COMPANY IN AN AMOUNT NOT TO EXCEED $967,330.11 FOR THE RENEWAL LOAN AGAINST REAL PROPERTY LOCATED AT 979 LOCKETT DRIVE.

WHEREAS, the existing loan with American National Bank and Trust Company ("American National Bank") for 979 Lockett Drive is up for renewal; and

WHEREAS, American National Bank has sent a Financing Commitment Letter with the listed Terms and Conditions for the renewal of the loan existing against the property located at 979 Lockett Drive.

NOW THEREFORE, BE IT RESOLVED by the Industrial Development Authority of Danville, Virginia ("IDA") that the Chairman, or in his absence any Officer, be, and hereby is, approved and authorized to execute the required Loan Commitment Letter for the renewal of an existing loan at 979 Lockett Drive with American National Bank in an amount not to exceed Nine Hundred Sixty-Seven Thousand Three Hundred Thirty and 11/100 Dollars ($967,330.11) to renew the existing loan on the property located at 979 Lockett Drive substantially in the form attached hereto and made a part hereof as if set out fully within; and

BE IT FURTHER RESOLVED that the Chairman, or in his absence any Officer, be, and hereby is, authorized to execute any and all other documents necessary for this loan renewal as needed to complete this transaction.

Approved:

Chairman

Attest:

Secretary

Approved as to
Form and Legal Sufficiency:

City Attorney

AMERICAN NATIONAL
BANK & TRUST COMPANY

July 26, 2023

Mr. T. Neal Morris, Chairman
Industrial Development Authority of Danville, VA.
City of Danville
427 Patton Street Suite 421
Danville, VA 24541

Dear Chairman Morris:

American National Bank and Trust Company (hereafter the "Bank"), is pleased to renew for the Industrial Development Authority of Danville, VA (the "Borrower") a term loan in an amount not to exceed $976,330.11 plus applicable closing costs, (hereafter, the “loan”) subject to the following terms and conditions:

BORROWER(S):

Industrial Development Authority of Danville Virginia

FACILITY / AMOUNT:

Term Loan in an amount not to exceed $967,330.11 plus applicable closing costs

PURPOSE:

Refinance the current balance owed on 979 Lockett Drive, Danville, VA. Loan to be cross collateralized with the deed of trust held on 527 Bridge Street, Danville, VA. Property known as the Old Belt One building.

INTEREST RATE:

Interest shall accrue at a fixed rate of five percent (7.25%). Interest shall accrue on the basis of a 360 day year as applied to actual days.

TERM / REPAYMENT:

Principal and interest payments shall be due monthly based on the remaining term of one hundred twenty (120) months. Maturity date shall be sixty (60) months from the date of the note.

ORIGINATION FEE:

An origination fee of one half percent (.50%) of the loan balance will be applicable and will be collected at loan closing.

COLLATERAL:

A Credit Line Deed of Trust and an assignment of all rents and leases on 979 Lockett Drive, Danville VA (formerly known as 1000 Lockett Drive, Danville, VA). Loan to be cross-collateralized with the Deed of Trust held on 527 Bridge Street, Danville, VA 24541

GUARANTOR(S):

The loan will require the full moral obligation of the City of Danville.

PREPAYMENT:

The loan may be prepaid in whole or in part at any time without premium or penalty.

DEPOSITS:

Borrower(s) shall maintain its primary deposit relationship with the Bank.

HAZARD INSURANCE:

At closing Borrower will provide Bank with evidence of a hazard insurance policy for the full replacement cost of the insurable portions of the collateral, naming Bank as lienholder/loss payee. Borrower will maintain such insurance during the life of the loan.

OTHER FEES / EXPENSES:

By accepting this commitment, Borrower agrees to pay all costs and expenses incurred by Bank in connection with the Bank's review, due diligence, and loan closing. These fees include, but are not limited to: attorney's fees incurred in connection with negotiation and preparation of loan related documents; costs of environmental investigation and audit; cost of appraisals and appraisal reviews; cost of title examinations and title insurance premiums; cost of surveys; inspection fees; filing fees; recording costs; architect fees; flood determination fees; and all insurance premiums and costs. Borrower agrees to reimburse Bank for any and all costs regardless of whether loan closing occurs.

Bank reserves the right to designate an attorney of its choice to represent it in connection with this loan, at Borrower's expense. Upon your acceptance of this commitment, we will instruct the attorney of your choice (subject to Bank approval) to facilitate closing once all terms and conditions precedent have been met.

FINANCIAL REPORTING REQUIREMENTS:

Annual Financial Statements: Borrower shall deliver to bank within 120 days after the end of each fiscal year, CPA prepared financial statements of Compiled quality or better, as determined by Bank, for any Borrower or Guarantor which is an entity (defined as a corporation, limited liability company, limited partnership, business trust, trust, estate, or other entity that is not a living person). These statements must reflect operations during the fiscal year, including a balance sheet, profit and loss statement, and statement of cash flow, as well as any supporting schedules. These statements should provide reasonable detail and be prepared in accordance with generally accepted accounting principles (except in cases where the nature of the business warrants deviation from GAAP).

Other Financial Information: Upon Bank's request, Borrower and/or Guarantors will provide any other such financial information Bank deems necessary for review, including but not limited to: periodic financial statements for component entities, accounts receivable aging reports, accounts payable aging reports, inventory reports, rent rolls, copies of leases, and work in progress reports. All information shall be in form and content satisfactory to Bank.

All financial reports required to be provided under this agreement shall be prepared in accordance with GAAP or OCBOA, applied on a consistent basis, and certified by Borrower as being true and correct.

COVENANTS:

None

LOAN DOCUMENTS:

Loan closing is contingent upon execution and delivery of loan documents, including all items to create and perfect a security interest. This commitment is designed to provide an outline of the transaction and is not meant to address all issues, requirements, or conditions which will be fully addressed in the loan documents.

ASSIGNABILITY / RELIANCE:

This commitment constitutes an offer by Bank to Borrower to make a loan subject to the terms and conditions set forth herein, and cannot not be relied upon by any third party. This commitment and the right of the Borrower to receive loans hereunder may not be assigned or transferred by Borrower without prior written approval of Bank. There are no third-party beneficiaries of this commitment.

CONFIDENTIALITY:

Borrower will treat the existence and terms of this commitment as confidential. Borrower will not disclose the terms of this commitment to any other lender, or to any other person other than Borrower's attorneys, accountants, and other business consultants.

SURVIVAL:

Borrower will execute and deliver any and all legal documentation from Bank that is necessary to facilitate loan closing and lien perfection. To the extent that the terms, provisions and conditions set forth in this commitment are not contained in the other loan documents, they shall survive the loan closing and this commitment will constitute one of the loan documents.

To the extent there is any conflict or inconsistency between the provisions of this commitment and the other loan documents, the provisions of the loan documents will control and supersede the provisions of this commitment. In the event the other loan documents do not address a particular issue, contingency, condition, or provision and this commitment does address such items, this shall not be construed as a conflict between this commitment and the loan documents.

GENERAL CONDITIONS:

The Bank has issued this commitment on the basis of and in reliance upon the assurance of information, exhibits, documents or materials submitted to the Bank by Borrower or on Borrower's behalf in connection with the loan. Bank shall have the option to terminate this commitment upon written notice to Borrower if it determines there has been any material misrepresentations or misstatement of material fact by Borrower; if prior to disbursement of the loan there shall have been a material adverse change in the state of facts or any material adverse change in the state of facts or a material adverse change in the financial condition of Borrower or Guarantor; or if Borrower shall have become insolvent, incapacitated, or shall file or have filed against it any petition under the United States Bankruptcy Code. Borrower acknowledges that with acceptance of this commitment, Borrower acknowledges that variables such as cost overruns, loss of income, additional indebtedness, deterioration in existing credit scores, or other characteristic negatively affecting financial capacity or the value of the collateral may negatively affect Borrower's ability to obtain financing.

ACCEPTANCE:

This commitment will expire if not accepted or extended in writing by the close of business on August 31, 2023 (the "commitment expiration date").

If this commitment is accepted, time being of the essence, the loan made in connection herewith must close on or before the close of business on August 31, 2023 (the "closing date") unless the Bank extends the closing date in writing. The Borrower acknowledges that the interest rate and other terms of the loan outlined in the commitment are based upon acceptance of this commitment and closing of the loan within the time periods set forth above and that these time periods are material factors in the Bank offering this commitment.

If the commitment is not accepted by the commitment expiration date or, if accepted, the loan is not closed by the closing date, then Bank's obligations under this commitment shall be null and void and of no further force or effect.

We appreciate your business and the opportunity to provide you with the financial services of American National Bank and Trust Company. Should you have any questions regarding this commitment, please do not hesitate to contact me.

Sincerely,
AMERICAN NATIONAL BANK AND TRUST COMPANY

By: Ted R Laws ______________________________
Ted R. Laws, SVP

The undersigned accepts the foregoing commitment, and by this acceptance agrees to be bound by its terms, this __________ day of ______________, 20_______.

BORROWER: Industrial Development Authority of Danville Virginia

By: ______________________________
T. Neal Morris, Chairman

Industrial Development Authority

STAFF REPORT

DATE: August 8, 2023

TO: Industrial Development Authority

FROM: W. Clarke Whitfield Jr., City Attorney

RE: Resolution to Approve Refinance of 979 Lockett Drive with American National Bank.

Resolution to Approve Refinance of 979 Lockett Drive

ATTACHMENTS

1. 758 RES 979 Lockett Dr REFI with ANB
2. 758-Attachment 979 Lockett Drive Danville - Amended and Restated Loan Agreement 8.25.2023
3. 758 - Attachment 979 Lockett Drive Danville - Amended and Restated Promissory Note 8.25.2023

PRESENTED: August 8, 2023

ADOPTED: August 8, 2023

RESOLUTION NO. 2023-____.____

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING AN AMENDED AND RESTATED LOAN AGREEMENT AND PROMISSORY NOTE TO REFINANCE IMPROVEMENTS LOCATED AT 979 LOCKET DRIVE FROM AMERICAN NATIONAL BANK AND TRUST COMPANY.

WHEREAS, pursuant to a Previous Loan Agreement, the Industrial Development Authority Of Danville, Virginia (IDA) obtained financing from American National Bank and Trust Company (American National Bank) secured by real property situated at 979 Lockett Drive, Danville, Virginia 24541 and improvements thereon, located in the City of Danville, Virginia; and

WHEREAS, the IDA desires to amend and renew the Previous Loan and American National Bank is willing to amend and renew the Previous Loan.

NOW THEREFORE, BE IT RESOLVED by the Industrial Development Authority of Danville, Virginia that it hereby approves and authorizes the refinancing of a loan in the new principal amount of One Million Twenty Five Thousand and 00/100 Dollars ($1,025,000.00) from American National Bank for the improvements at 979 Locket Drive; and

BE IT FURTHER RESOLVED by the Industrial Development Authority of Danville, Virginia that the IDA, hereby is, approves all "Loan Documents" associated with is transaction, including but not limited to, the Amended and Restated Promissory Note, and the Amended and Restated Loan Agreement both attached hereto and made a part hereof as if fully set out herein; and

BE IT FINALLY RESOLVED by the Industrial Development Authority of Danville, Virginia that the Authority herby approves and authorizes the Chairman, or in his absence any officer, to execute, acknowledge, the Amended and Restated Promissory Note, and the Amended and Restated Loan Agreement and deliver and all such further documents as may be reasonably required to carry out and consummate the transactions contemplated by this Resolution.

Approved:

____
Chairman

Attest:

____
Secretary

Approved as to
Form and Legal Sufficiency:

____
City Attorney

AMENDED AND RESTATED LOAN AGREEMENT

THIS AMENDED AND RESTATED LOAN AGREEMENT ("Agreement") dated as of August 25, 2023 is by and between the INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia ("Borrower"), and AMERICAN NATIONAL BANK AND TRUST COMPANY, a national banking association ("Lender"), and amends and restates in its entirety that certain Loan Agreement dated October 25, 2018, by and between Borrower and Lender (the "Previous Loan Agreement"). **NO NOVATION IS INTENDED HEREBY.**

RECITALS:

A. Pursuant to the Previous Loan Agreement, Borrower obtained financing from Lender secured by real property situated at 979 Lockett Drive, Danville, Virginia 24541 (formerly known as 979 and 1000 Lockett Drive) (Tax PINs 75918, 78267, and 78545), and improvements thereon, located in the City of Danville, Virginia (the "Previous Loan").

B. Borrower has applied to Lender to renew the Previous Loan associated with the acquisition and upfit of the Property.

C. Borrower desires to amend and renew the Previous Loan and Lender is willing to amend and renew the Previous Loan upon the terms and conditions provided below.

D. Lender is willing to modify the Previous Loan upon the terms and conditions provided below and has agreed to renew the Previous Loan for a term of sixty (60) months in an amount necessary to cover the outstanding principal balance, bank charges associated with the renewal, and attorneys' fees and other costs and expenses, not to exceed in the aggregate a new principal amount of One Million Twenty Five Thousand and 00/100 Dollars ($1,025,000.00) (the "Loan"), as evidenced and described in that promissory note dated as of the date of this Agreement, the terms of which are incorporated herein by reference.

E. The parties desire to set forth in this Agreement the terms, covenants, and conditions and other particulars concerning the Loan, and the parties agree and acknowledge that the Loan is being made to Borrower upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the parties agree as follows:

AGREEMENT

SECTION 1
Definitions

1.1 Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"527 Bridge Street Deed of Trust" shall mean certain Credit Line Deed of Trust dated as of April 30, 2013 and recorded in the Clerk's Office as Instrument No. 13-1581, to secure the payment and performance of the Obligations, granting to Lender a first priority lien on the real estate located at 527 Bridge Street, Danville, Virginia 24541, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

"Advances" shall mean any and all funds advanced from or charged to Borrower's account under conditions set forth in this Loan Agreement.

"Affiliate" shall mean, with respect to any Person, another Person that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such Person.

"Agreement" shall mean this Loan Agreement, including all amendments, modifications and supplements thereto.

"Applicable Law" shall mean all provisions of laws, statutes, ordinances, rules, regulations, permits, requirements, certificates or orders of any Governmental Authority applicable to the Person in question or any of its assets or property, and all judgments, injunctions, orders and decrees of all courts and arbitrators in proceedings or actions in which the Person in question is a party or by which any of its assets or properties may be bound.

"Assignment of Rents" shall mean collectively, the Assignment of Rents dated April 30, 2013 and recorded in the Clerk's Office as Instrument Number 13-1582, and the Assignment of Rents dated September 16, 2013 and recorded in the Clerk's Office as Instrument Number 13-3771 from Borrower to Lender, securing repayment of the Obligations.

"Borrower" shall mean Industrial Development Authority of Danville, Virginia, a political subdivision of the Commonwealth of Virginia.

"Business Day" shall mean any day other than a Saturday, Sunday or legal holiday in the Commonwealth of Virginia or observed by the City of Danville, Virginia.

"Clerk's Office" shall mean the Clerk's Office of the Circuit Court of Danville, Virginia.

"Closing" shall mean the execution of the Agreement, and the execution and delivery of all other Loan Documents required under the terms of the Agreement.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and the rules and regulations issued thereunder, as from time to time in effect, or any successor thereto.

"Collateral" shall mean the security provided for under Section 3.1 and Section 3.2 of this Agreement.

"Commitment Letter" shall mean that certain commitment letter dated July 26, 2023 from Lender to Borrower.

"Deed of Trust" shall mean that certain Credit Line Deed of Trust dated as of September 16, 2013 and recorded in the Clerk's Office as Instrument No. 13-3770, with respect to the Property to secure the payment and performance of the Obligations, granting to Lender a first priority lien on the Property, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

"Environmental Laws" shall mean at any date, all provisions of Applicable Law concerning the protection of the environment (including soil, the air, surface waters, ground water and land use) including all administrative orders, directed duties, licenses, authorizations and permits of, and agreements with, any Governmental Authority, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), the Clean Air Act, the Federal Water Pollution Control Act of 1972, the Solid Waste Disposal Act, the Federal Resource Conservation and Recovery Act, the Toxic Substances Control Act and the Emergency Planning and Community Right-to-Know Act.

"Event of Default" shall mean an Event of Default as defined in Section 8.1.

"Governmental Authority" shall mean any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, or any court, in each case whether of the United States or foreign.

"Hazardous Materials" shall mean all those substances which are regulated by, or which may form the basis of liability under, any Environmental Law, including all substances identified under any Environmental Law as a pollutant, contaminant, hazardous substance, hazardous material, toxic substance or waste, petroleum or petroleum derived substance or waste, radioactive substance or waste, special waste, industrial waste, any other substance or waste that, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or pose a present or potential hazard to health or the environment when improperly used, stored, generated, manufactured, handled or released, or any constituent of any such substance or waste.

"Improvements" shall mean all on-site improvements located on the Land, together with all fixtures, improvements, and appurtenances now or later to be located on the Land and in such improvements.

"Land" shall mean the real estate owned by Borrower situated at 979 Lockett Drive, Danville, Virginia 24541.

"Lender" shall mean American National Bank and Trust Company, a national banking association, with an office located at 628 Main Street, Danville, Virginia, and its successors, assigns, or transferees.

"Loan" shall mean the loan made by Lender to Borrower in the maximum amount of $1,025,000.00.

"Loan Documents" shall mean this Agreement (including all exhibits), the Deed of Trust, the Collateral Deed of Trust, the Assignment of Lease, the Note, the Moral Obligation Agreement, the Commitment Letter, and financing statements and such other documents evidencing, securing or pertaining to the Loan as shall from time to time, be executed and delivered by Borrower, or any other party to Lender pursuant to this Agreement.

"Note" shall mean that Promissory Note of even date herewith in the principal amount of $980,853.91, executed by Borrower and delivered to Lender pursuant to this Agreement to evidence the Loan made to Borrower, together with any amendments, modifications and supplements thereto, and any renewals or extensions thereof, in whole or in part.

"Obligations" shall mean the unpaid principal amount of and accrued interest on the Note and all other obligations and liabilities of Borrower to Lender, now existing or hereafter incurred, under, arising out of or in connection with this Agreement and the Note, and all obligations, liabilities and indebtedness of Borrower under any Loan Document, in each case howsoever created, arising or evidenced, whether voluntary or involuntary, direct or indirect, absolute or contingent, liquidated or unliquidated, now or hereafter existing, or due or to become due, including but not limited to all Cross-Default Obligations, and all other liabilities of Borrower to Lender now existing or hereafter incurred, matured or unmatured, direct or contingent, whether or not evidenced by a note or notes, and any and all renewals and extensions thereof and substitutions therefor.

"Person" shall mean any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity, party, political subdivision, or governmental authority.

"Property" shall mean the Land, the Improvements and all other property of Borrower described in the Deed of Trust, or subject to a right, lien or security interest to secure the Loan pursuant to any other Loan Document.

SECTION 2
The Loan

2.1 Loan. Subject to the terms and conditions of this Agreement, Lender will make the Loan by advancing for the account of Borrower, the sum necessary to pay the existing indebtedness owed by Borrower to Lender associated with the Property, plus closing costs of this Loan, and which sum in the aggregate will not exceed not to exceed in the aggregate a new principal amount One Million Twenty Five Thousand and 00/100 Dollars ($1,025,000.00) (the "Loan Amount").

2.2 Note and Moral Obligation Agreement. The Loan shall be evidenced by the Note in form and substance satisfactory to Lender. Borrower shall, in conjunction with the execution and delivery of the Note, deliver the following documents to Lender duly executed:

(a) a Moral Obligation Agreement, in the form customarily used by the City of Danville, Virginia (the "City"), executed by or on behalf of the City, in support of the repayment of the Loan (the "Moral Obligation Agreement"); and

(b) an Agreement to Provide Insurance, Disbursement Authorization, and other documents customarily required for a loan of this nature.

2.3 Use of Loan Proceeds. The proceeds of the Loan which are the subject matter of this Agreement are being used by Borrower, in accordance with Section 15.2-4905(4) of the Code of Virginia, 1950, as amended (the "Code"), in connection with the extension and renewal of a loan related to the original acquisition, purchase and/or improvement of "Authority facilities", as defined in Section 15.2-4902 of the Code. The Note is payable by Borrower from its revenues and receipts generally, as permitted by Section 15.2-4908(A)(i) of the Code.

2.4 Interest on Loan. Interest shall accrue at the fixed rate of seven and 25/100 percent (7.25%), compounded monthly, from the date of the Note until the Note is paid in full. Interest will be charged and calculated on the basis of a three hundred sixty (360) day year and will be paid for the actual number of days elapsed. Principal and accrued interest shall be due and payable in fifty nine (59) consecutive equal monthly installments commencing on October 10, 2023, and continuing on the tenth day of each month thereafter, in an amount sufficient to fully amortize the unpaid balance of the Note over a period of one hundred twenty (120) months, with one (1) final payment of all outstanding principal, accrued interest and other charges, if not sooner paid, due and payable on September 10, 2028 (the "Maturity Date").

2.5 Modification Fee. Borrower will pay to Lender, in addition to any interest due under this Agreement, a modification fee in the amount of one-half percent (.50%) of the Loan Amount (the "Modification Fee"), which shall be due and payable at Closing. The Modification Fee shall be fully earned upon the acceptance of the commitment for the Loan, and shall not be subject to proration or rebate upon the termination of this Agreement.

2.6 Repayment. Borrower will make monthly payments as provided in the Note.

2.7 Prepayment. Borrower may prepay the Loan in whole or in part any time; provided, however, that any prepayment of the Loan shall include, without limitation, payment of all amounts payable by Borrower for early termination, adjustment, and settlement of the Swap Transactions, whether such prepayment is made as a result of acceleration of the Obligations, voluntary prepayment of all or a portion of the Obligations in connection with a refinancing, or otherwise. Any such prepayment of the Loan shall be applied to the principal installments thereof in the inverse order of their maturities.

SECTION 3
Collateral; Cross-Default

3.1 Deed of Trust on Property. The Obligations shall be secured by the Deed of Trust conveying a first priority lien on the Property. The Deed of Trust shall be in form and substance satisfactory to Lender.

3.2 Assignment of Rents. The Obligations shall also be secured by the Assignment of Leases which shall be in form and substance satisfactory to Lender.

3.3 Full Release of Collateral Upon Payment. Upon satisfaction by Borrower of all of the Obligations, Lender will release its security interest in the Collateral.

3.4 Cross-Default. The entire indebtedness and sums secured by the Deed of Trust shall become due and payable at the option of Lender immediately upon the occurrence of a default in the performance by Borrower, or its successor or assigns, of any of the terms, provisions, covenants, conditions, or agreements contained in the 527 Bridge Street Deed of Trust, the note secured thereby, or any of the other documents or instruments executed in connection with the debt secured by the 527 Bridge Street Deed of Trust.

SECTION 4
Advances

4.1 Advances. Any Advance under the Loan shall not be assignable by Borrower nor subject to the process of any Court upon legal action by or against Borrower or by or against anyone claiming under or through it, and for the purposes of this Agreement, the funds shall remain and be considered the money and property of Lender until Borrower complies with each and every provision of this Agreement; provided, however, that nothing herein contained shall be considered as modifying, affecting, or subordinating the obligations heretofore given or to be given by Borrower as security for the Loan, and the same shall be and remain in full force and effect.

4.2 Conditions Precedent to First and Only Advance. As conditions precedent to the first and only Advance hereunder, Borrower shall satisfy the following conditions:

(a) Fees and Expenses. Lender shall have received the Modification Fee from Borrower, and Borrower shall have paid all other fees, costs and expenses then required to be paid pursuant to this Agreement and any other Loan Documents.

(b) Financial Statements. Lender shall have received and approved the financial statements of Borrower or any other party required by any loan application or commitment or otherwise required by Lender.

(c) Authorization. Lender shall have received and approved evidence Lender requires of the existence and authority of Borrower to execute, deliver, and perform the Loan Documents, including documentation satisfactory to Lender identifying those person(s) with authority to execute the Loan Documents on behalf of Borrower.

(d) Loan Documents. Borrower and each other Person required by Lender shall have duly executed, recorded or filed, and delivered to Lender all Loan Documents then required by Lender, dated the date of this Agreement, all in form and substance satisfactory to Lender.

(e) Moral Obligation Agreement. Lender shall have received the Moral Obligation Agreement duly executed by the City of Danville, Virginia.

(f) Certificate of Extension of Deed of Trust. Lender shall have received a duly executed Certificate of Extension of Limitation of Right to Enforce Deed of Trust.

(g) Insurance Policies. Lender shall have received a copy of a casualty insurance policy, declaration pages, or certificate of insurance, covering the improvements on the Property in an amount not less than the full Loan Amount and naming Lender as a mortgagee loss payee, issued by an insurance company reasonably acceptable to Lender and with proof that the premium for such insurance has been paid in advance. Additionally, Lender shall have received from Borrower either (i) a flood insurance policy in an amount equal to the lesser of the maximum Loan amount or the maximum amount of flood insurance available under the Flood Disaster Protection Act of 1973, as amended, and otherwise in compliance with the requirements of the Loan Documents, or (ii) evidence satisfactory to Lender that none of the Land is located in a flood hazard area.

(h) Agreement to Provide Insurance. Lender shall have received an agreement to provide insurance, disbursement authorization, credit purpose certification and such other documents as may be customarily and reasonably required for a commercial loan of this type.

(i) Other Documents. Borrower shall have delivered to Lender, in form and substance satisfactory to Lender, such other documents and certificates as Lender may reasonably request, including but not limited to any reports, assessments, or other documents required as a condition to the Loan, in accordance with the provisions of the Commitment Letter.

4.3 Conditions and Waivers. All conditions precedent to the obligation of Lender to make any Advance are imposed hereby solely for the benefit of Lender, and no other party may require satisfaction of any such condition precedent or be entitled to assume that Lender will refuse to make any Advance in the absence of strict compliance with such conditions precedent. Any requirement of this Agreement may be waived, in whole or in part, in a specific written waiver intended for that purpose and signed by Lender. No Advance shall constitute a waiver of any condition precedent to any further Advance, or preclude Lender from thereafter declaring the failure of Borrower to satisfy such condition precedent to be an Event of Default. No waiver by Lender of any condition precedent or obligation shall preclude Lender from requiring such condition or obligation to be met prior to making any other Advance or from thereafter declaring the failure to satisfy such condition or obligation to be an Event of Default.

4.4 Cessation of Advances. Lender will have no obligation to make any Advances or disburse the proceeds of the Loan if: (a) Borrower or any other Person liable for the repayment of the Loan is in default under the terms of any agreement with Lender or any other creditor; (b) Borrower or any other Person liable for the repayment of the Loan becomes insolvent, files a petition in bankruptcy or is adjudged to be bankrupt; or (c) there is a material adverse change in Borrower's financial condition, in the financial condition of any other Person liable for the repayment of the Loan, or in the value of any property securing the Loan.

SECTION 5
Affirmative Covenants

Borrower covenants and agrees that between the date hereof and the date of the payment in full of all the principal, interest and other reasonable charges (including attorney's fees, if any) due under the Obligations, unless Lender shall otherwise consent in writing:

5.1 Inspection. Lender may enter upon the Property to inspect the Property at any reasonable time, provided that Lender gives reasonable advance notice to Borrower (except in the case of emergencies). Borrower will furnish to Lender at any time for inspection and copying all books and records, and other documents and information required by Lender.

5.2 Financial Records. Borrower shall provide to Lender annually, within one hundred-twenty (120) days following the end of the Borrower's fiscal year, audited financial statements for the preceding year, including all schedules, as set forth in the Commitment Letter. All financial statements, certificates, or other information furnished or to be furnished to Lender are, and shall be, true and accurate. Borrower will maintain at all times proper books of account and records in accordance with sound accounting principles.

5.3 Rent Rolls. Borrower shall provide to Lender annually, a copy of the rent rolls for all Borrower properties showing rents received.

5.4 Conduct of Business; Compliance with Law. Borrower shall conduct its business affairs in a reasonable and prudent manner. Borrower will comply with all Applicable Laws, and pay, promptly when due, all taxes, assessments, governmental charges, claims for labor, supplies, rent and other obligations except liabilities being contested in good faith and against which Borrower has set up reserves as required by sound accounting principles. Borrower will pay or cause to be paid when due all taxes, assessments, charges, or levies imposed upon the Property, except when any such taxes or assessments are contested in good faith by appropriate proceedings, with adequate reserves therefor having been set aside for the payment thereof by Borrower, upon appropriate determination of such liability.

5.5 Insurance. Borrower will continuously maintain insurance against such risks as are customarily insured against by businesses of like size and character, paying as the same become due all premiums in respect thereto. Borrower will maintain all risk and property damage insurance policies (including without limitation, windstorm damage and hurricane coverage as applicable) covering the tangible property comprising the Collateral. Each insurance policy must be in an amount acceptable to Lender. The insurance must be issued by an insurance company acceptable to Lender and must include a lender's loss payable endorsement in favor of Lender in a form acceptable to Lender. Such policies shall contain a provision that such policies cannot be cancelled except upon thirty (30) days' written notice to Lender. Borrower shall furnish to Lender such evidence of the existence of such insurance, and that such insurance remains in full force and effect, as Lender may reasonably require. Borrower agrees that, in the event it fails to pay when due any premiums for such insurance, Lender may, after notice to Borrower, reasonable under the circumstances, pay such premium (but shall not be obligated to do so) and on demand, Borrower shall reimburse Lender therefor.

5.6 Flood Insurance. If any portion of the Property is located in a flood plain, Borrower will furnish and maintain flood insurance as directed or requested by Lender, in a form reasonably acceptable to Lender and naming Lender as a mortgagee loss payee thereunder. At such times as Lender may request, Borrower shall provide evidence satisfactory to Lender that such flood insurance remains in full force and effect.

5.7 Material Change. Borrower shall promptly inform Lender in writing of any material change in Borrower's financial condition and of any litigation, claim, investigation, administrative proceeding, arbitration or other similar action which could materially affect the financial condition of Borrower.

5.8 Deposit Relationship. During the term of the Loan, Borrower will maintain its primary banking relationship with American National Bank and Trust Company. This provision shall not apply to any successor banking institution.

5.9 Payment of Indebtedness. Borrower shall pay and discharge when due all of its indebtedness and obligations imposed upon Borrower or its properties, income or profits, and all lawful claims that, if unpaid, might become a lien or charge on any of Borrower's properties, income or profits, except indebtedness or obligations being contested in good faith and against which Borrower has set up reserves as required by sound accounting principles. Borrower shall furnish evidence of payment to Lender upon request and shall authorize the appropriate government official to deliver information regarding such indebtedness or obligation upon request of Lender.

5.10 Environmental Studies; Hazardous Materials. Borrower shall promptly conduct and complete, at Borrower's expense, all environmental studies, inspections and tests as may be reasonably requested by Lender or any Governmental Authority, relative to any Hazardous Materials at or affecting any property or any facility owned, leased or used by Borrower. Borrower shall not use or permit any other party to use or place any Hazardous Materials (or similar term used under any applicable environmental laws) at or upon the Property, except such materials as are (i) incidental to tenant's business on the Property and/or any maintenance and repair of any improvements thereon, and which materials are handled, stored, and used in compliance with all applicable Environmental Laws, or (ii) are used in accordance with Environmental Laws. Borrower shall immediately advise Lender in writing of:

(a) Any and all enforcement, clean-up, remedial removal, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any applicable federal, state, or local laws, ordinances, or regulations relating to any Hazardous Materials affecting the Property or any business operations therefrom to the extent Borrower has or obtains knowledge or notice of the same; and

(b) All claims made or threatened by any third party against Borrower relating to damages, contributions, costs, recovery, compensation, loss, or injury resulting from the presence, storage, disposal, or release of any Hazardous Materials on or from the Property.

5.11 Notice of Event of Default. Borrower shall notify Lender as soon as reasonably practicable if Borrower becomes aware of the occurrence of any Event of Default.

SECTION 6
Negative Covenants of Borrower

Until payment in full of all principal and interest and other charges (including attorney's fees, if any) due under the Obligations, Borrower covenants that without the prior written consent of Lender, which consent shall not be unreasonably withheld:

6.1 Merger, Consolidation, Dissolution. Borrower shall not change its name or enter into any merger, consolidation, reorganization, or recapitalization, without the written consent of Lender

6.2 Indebtedness. Borrower will not sell, mortgage, or in any manner encumber the Property, or any part thereof, or permit or suffer to exist thereon any mortgage, lien, or encumbrances of any character (other than the lien of the Deed of Trust and the Permitted Encumbrances) and if such mortgage, lien, or encumbrances shall become effective in relation to the Property or any part thereof, Borrower will forthwith pay and discharge the same. Nothing herein shall be construed to prevent Borrower from leasing, or continuing to lease, all or any portion of the Property.

SECTION 7
Representations and Warranties

Borrower represents and warrants to Lender, and such representations and warranties shall be continuing so long as any Obligations shall remain outstanding as follows:

7.1 Formation and Authorization. Borrower is a political subdivision of the Commonwealth of Virginia, duly organized, validly existing, and in good standing under the laws of the Commonwealth of Virginia, and is authorized to transact business in all jurisdictions in which Borrower currently conducts any material business. Borrower has been duly authorized to enter into the Note, this Agreement, and any other Loan Documents to be executed by Borrower. This Agreement, the transactions contemplated herein, and the other Loan Documents to be executed by Borrower have been approved by all necessary action by Borrower; and the persons executing this Agreement and any of the Loan Documents contemplated to be executed by Borrower have full and complete authority to execute and deliver the same for and on behalf of Borrower.

7.2 Enforceability. This Agreement, the Note and each of the other Loan Documents to which Borrower is a party constitute the valid and legally binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by equitable principles.

7.3 No Violation. The execution and delivery by each Borrower of this Agreement, the Note and each of the other Loan Documents to which Borrower is a party are not, and the performance by Borrower of its obligations under each, do not and will not contravene any law, governmental rule or regulation, judgment or order applicable to it, and do not and will not contravene any provision of, or constitute a default under, any indenture, mortgage, contract or other instrument to which Borrower is a party or by which it is bound or require the consent or approval of, the giving of notice to, the registration with or the taking of any action in respect of or by, any Federal, state or local governmental authority or agency or other Person, except such as have been duly obtained, given or accomplished and copies of which have been delivered to Lender.

7.4 Collateral Free of Encumbrances. Borrower has not previously assigned, encumbered or mortgaged any Collateral, and the Collateral is not subject to a prior security interest or lien in favor of any person other than Lender, that has not previously expired or been terminated or released. Borrower will defend the Collateral against all claims and demands of all persons at any time claiming any interest therein. No financing statement describing the Collateral or any part thereof, or covering any proceeds of the Collateral, that has not previously expired or been terminated or released, is on file in any public office except those in favor of Lender.

7.5 Litigation. There is no material litigation or proceeding (administrative or otherwise) pending against or affecting Borrower or the Property nor does Borrower have any knowledge of any threatened litigation, which, if decided adversely to Borrower, would or will have a material adverse effect upon the business or financial condition of Borrower or the Property.

7.6 Taxes. Borrower has filed, and at all relevant times will file, all Federal, State and local tax returns required to be filed by them and have paid, and will pay, all taxes as shown on such returns as they become due.

7.7 Defaults. Borrower is not in default hereunder or under any agreement to which it is a party or by which it is bound, which default would have a material adverse effect on the business operations or financial condition of Borrower.

7.8 Financial Statements. All financial and other information that has been or will be provided to Lender is sufficiently complete to give Lender accurate knowledge of Borrower's financial condition, including all material contingent liabilities. Since the date of the most recent financial statement provided to Lender, there has been no material adverse change in the business condition (financial or otherwise), operations, properties or prospects of Borrower.

7.9 Permits. Borrower possesses all permits, memberships, franchises, contracts and licenses required and all trademark rights, trade name rights, patent rights, copyrights, and fictitious name rights necessary to enable Borrower to conduct the business in which it is now engaged.

7.10 Material Adverse Change. There has been no material adverse change in the financial condition, operations, business, properties or prospects of Borrower from that reflected in the most recent financial statements of Borrower delivered to Lender.

7.11 Environmental Matters. To the best of Borrowers knowledge and except as previously disclosed to Lender in writing, the Property has not been involved with activities related to the release, use, manufacture, generation, treatment, storage or disposal of Hazardous Materials or in violation of any Environmental Laws. Borrower authorizes Lender to enter upon the Property, make such inspections as Lender may deem appropriate to determine compliance of the Property with this Section of this Agreement. Borrower hereby (i) releases and waives any future claims against Lender for indemnity or contribution in the event Borrower becomes liable for cleanup or other cost under such Environmental Laws, unless such arises out of the gross negligence or willful misconduct of Lender and (ii) agrees to indemnify and hold Lender harmless against any and all claims, losses, liabilities, damages, penalties and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this Section 7.11 or as a consequence of any environmental activity occurring prior to Borrower's interest in the Property.

7.12 Compliance with Law. To the best of Borrower's knowledge, the Land and Improvements comply with all Applicable Laws, including all subdivision and platting requirements, without reliance on any adjoining or neighboring property; and the current or anticipated use of the Property complies with applicable zoning ordinances, regulations and restrictive covenants affecting the Land, and all use requirements of any Governmental Authority have been satisfied.

7.13 Title to Properties. To the best of Borrower's knowledge, except as has been previously disclosed to Lender in writing, Borrower owns and has good title, in Borrower's legal name, to all of Borrower's properties, free and clear of all security interests, and has not executed any security documents or financing statements relating to such properties except consistent with provisions of this Agreement.

7.14 Business Purpose. Borrower intends to use the proceeds of the Loan solely for business or commercial purposes.

SECTION 8
Default

8.1 Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

(a) Failure by Borrower or any other obligated party to pay when due any payment of interest, principal, principal and interest, commitment fees, deposits, or other payments which are due and payable under the Note, the Commitment Letter, the Loan Documents, or any other document executed in connection therewith or as security therefor, if such failure continues for ten (10) business days after written notice to Borrower that such payment is overdue.

(b) Borrower shall fail to observe or perform any other covenant or condition contained in this Agreement or any of the Loan Documents and such failure shall continue for a period of thirty (30) days after written notice thereof shall have been given by Lender to Borrower, specifying such failure and requiring it to be remedied.

(c) Any warranty, representation or financial statement made or furnished to Lender by or on behalf of Borrower proves to have been materially incorrect, false, inaccurate or misleading in any material respect when made or furnished, or becomes false or misleading at any time thereafter.

(d) Borrower or any other person liable to Lender for repayment of the Loan defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or Person, that, in Lender's reasonable opinion, may materially affect any of Borrower's property or Borrower's or any other Person's ability to repay the Loan or perform their respective obligations under this Agreement, or any other Loan Documents.

(e) Any material loss, theft, substantial damage, destruction, sale or encumbrance to or of the Property (other than any loss which is adequately covered by insurance or transactions in the ordinary course of business or any encumbrance expressly permitted by this

Agreement), or the making of any levy, seizure, or attachment thereof or thereon which would have a material adverse effect on the business operations of Borrower and such proceeding is not dismissed or stayed within 45 days.

(f) Any judgment for the payment of money which, in the reasonable opinion of Lender, is in an amount material to the financial condition of Borrower and is not adequately insured or indemnified against.

(g) Borrower (i) files a petition or has a petition filed against it under the Bankruptcy Code or any proceeding for the relief of insolvent debtors which is not dismissed within sixty (60) days; (ii) benefits from or is subject to the entry of an order for relief by any court of insolvency; (iii) makes an admission of insolvency seeking the relief provided in the Bankruptcy Code or any other insolvency law; (iv) makes an assignment for the benefit of creditors; (v) has a receiver appointed, voluntarily or otherwise, for its property; (vi) permits a judgment in the amount of $50,000.00 or more to be obtained against it, which is not promptly paid or promptly appealed and secured pending appeal; or (vii) becomes insolvent, however otherwise evidenced.

(h) The occurrence of any event or condition which constitutes a material adverse change in the business, financial condition or results of operations of Borrower for the repayment of the Obligations.

(i) A lien for the performance of work or the supply of materials which is established against the Property remains unsatisfied or unbonded for a period of twenty (20) days after the date of filing.

(j) Any failure by Borrower to observe or perform any term, covenant, condition or agreement contained in any of the Loan Documents or the 979 Lockett Drive Deed of Trust, the note secured thereby, or any of the other documents or instruments executed in connection with the debt secured by the 979 Lockett Drive Deed of Trust.

Should Lender elect not to exercise such option to accelerate on the occurrence of an Event of Default, the same shall not be construed as a waiver of such right, and the cause of action on all amounts due and payable under the Note or other Loan Documents shall accrue on the day following the Maturity Date. Should the option be exercised, the cause of action shall be deemed to accrue on the day following such exercise. Lender may exercise its option to accelerate during any Event of Default by Borrower regardless of any prior forbearance but subject to the notice requirements to Borrower set forth in the Loan Documents.

8.2 Remedies. Upon the occurrence of any Event of Default under this Agreement, the obligation of Lender to make Advances to Borrower under the Loan shall cease, and Lender may declare all of the Obligations immediately due and payable without notice, protest, presentment or demand, all of which are hereby expressly waived by Borrower. Upon the occurrence of any Event of Default, Lender may also, at its election, but without any obligation to do so, without notice, do any one or more of the following:

(a) terminate its commitment to lend;

(b) reduce any claim to judgment;

(c) exercise any and all rights and remedies afforded by this Agreement, the other Loan Documents, law, equity or otherwise; or

(d) set-off and apply, to the extent thereof and to the maximum extent permitted by law, any and all deposits, funds, or assets at any time held and any and all other indebtedness at any time owing by Lender to or for the credit or account of Borrower against any Obligations.

8.3 Enforcement by Lender. Lender shall have the right at all times to enforce the provisions of this Agreement and the other Loan Documents in strict accordance with the terms hereof and thereof, notwithstanding any conduct or custom on the part of Lender in refraining from so doing at any time or times. The failure of Lender at any time or times to enforce its rights under any Loan Document shall not be construed as having in any way or manner modified or waived the right of Lender to enforce any and all Loan Documents in accordance with their terms. All rights and remedies of Lender are cumulative and concurring, and the exercise of any right or remedy shall not be deemed a waiver or release of any other right or remedy available to Lender.

SECTION 9
Termination

Borrower and Lender agree that this Agreement shall continue in effect until all Obligations due by Borrower to Lender under the terms of this Agreement shall have been paid and satisfied in full.

SECTION 10
Miscellaneous

10.1 Nature of Rights. Each and every right granted to Lender hereunder or under any other document delivered hereunder or in connection herewith or allowed it by law or equity shall be cumulative and may be exercised from time to time. No failure on the part of Lender to exercise, and no delay in exercising, any right shall operate as a waiver thereof, nor shall any single or partial exercise by Lender of any right preclude any other or future exercise thereof or the exercise of any other right.

10.2 Assignability. Borrower may not assign or in any way transfer its rights and obligations under this Agreement without the prior written consent of Lender.

10.3 Modification of Agreement. This Agreement may not be modified, altered or amended except in a writing executed by Borrower and Lender.

10.4 Further Assurances. Borrower agrees that at any time and from time to time upon the reasonable written request of Lender, Borrower will execute and deliver such further documents and do such further acts and things as Lender may reasonably request in order to effect the purposes of this Agreement.

10.5 Time of the Essence. Time shall be of the essence with respect to Borrower’s obligations under the Loan Documents.

10.6 Successors and Assigns. This Agreement shall be binding upon Borrower, and Borrower's heirs, devisees, representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns, provided, however, that Borrower shall not assign or encumber any interest of Borrower hereunder without the prior written consent of Lender. Lender may disseminate any information it has pertaining to the Loan, Property, and Borrower, to any actual or prospective assignee or participant or to prospective contractual counterparties (or their professional advisors). Borrower shall execute, acknowledge, and deliver any and all instruments reasonably requested by Lender or such assignee, participant or contractual counterparties.

10.7 Records. The unpaid amount of the Loan set forth on the books and records of Lender maintained in the ordinary course of its business shall be presumptive evidence of the amount thereof owing and unpaid, but failure to record any such amount on the books and records shall not limit or affect the obligations of Borrower under the Loan Documents to make payments on the Loan when due.

10.8 Notices. All notices or demands to a party shall be in writing and shall be deemed to have been duly and sufficiently given for all purposes when delivered (i) by personal delivery and shall be deemed effective when delivered, or (ii) by mail or courier and shall be deemed effective three (3) business days after deposit in an official depository maintained by the United States Post Office for the collection of mail or one (1) business day after delivery to a nationally recognized overnight courier service (e.g., Federal Express). Notice by e-mail is not valid notice under this or any other agreement between Borrower and Lender:

If to Lender:
American National Bank and Trust Company
628 Main Street
Danville, VA 24541
Attention: President

If to Borrower:
Industrial Development Authority of
Danville, Virginia
421 Municipal Building (24541)
P. O. Box 3300 (24543)
Danville, VA

With a copy to City Attorney:
The City Attorney's Office
P. O. Box 3300
Danville, VA 24543

Any notice or other communication so given shall constitute valid notice under this Agreement and shall be deemed to have been received (i) on the day of actual delivery in the case of personal delivery, (ii) on the next Business Day after the date when sent in the case of delivery by nationally recognized overnight courier, (iii) on the third Business Day after the date of deposit in the U.S. mail in the case of mailing, and (iv) upon receipt in the case of facsimile transmission. Any party may change the person and addresses to which notices or other communications are to be sent to it by giving written notice of any such change in the manner provided herein for giving notice.

10.9 Severability. Wherever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

10.10 Indemnity. Borrower agrees to indemnify Lender from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, or expenses of any kind or nature whatsoever (including, without limitation, reasonable attorney's fees) which may be imposed on, incurred by, or asserted against Lender in any litigation, proceeding or investigation instituted or conducted by any governmental agency or instrumentality or any other Person with respect to any aspect of, or any transaction contemplated by, or referred to in, or any matter related to, this Agreement, except to the extent that any of the foregoing arises out of the gross negligence or willful misconduct of Lender. The foregoing indemnity shall survive the repayment of the Obligations and the termination of this Agreement. All amounts due under this paragraph shall be payable on written demand therefor.

10.11 Expenses. Borrower agrees to pay all reasonable expenses incurred by Lender in connection with the arrangement of the credit facilities hereunder, and the preparation and administration of this Agreement (whether or not the transactions contemplated hereby shall be consummated), including without limitation, (i) reasonable attorney's fees; (ii) appraisal and survey costs; (iii) title insurance costs and premiums; (iv) title search or examination costs, including Uniform Commercial Code searches; (v) fees and costs of environmental investigations and site assessments; and (vi) filing and recordation fees and taxes. Borrower shall be liable for, and agrees to pay Lender any and all reasonable expenses incurred or paid by Lender in protecting or enforcing its rights under this Agreement, including reasonable attorney's fees and legal expenses. At its option, Lender may discharge taxes, liens, security interests or other encumbrances on the Property and may pay for the maintenance and preservation of the Property and for insurance thereon. Borrower agrees to reimburse Lender on demand for any payments so made, and until such reimbursement, the amount of any such payment, with interest at the rate provided in Section 2.4 of this Agreement from date of payment until reimbursement, shall be added to the Obligations owed by Borrower under the Loan and shall be secured by this Agreement.

10.12 Governing Law. This Agreement is entered into and shall be construed under the laws of the Commonwealth of Virginia (without giving effect to principles of conflicts of laws), and if legal action by either party is necessary for or with respect to the enforcement of any or all of the terms and conditions hereof, then exclusive venue therefore shall lie in the City of Danville, Virginia.

10.13 Binding Effect. The terms of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

10.14 Headings. The titles and section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.

10.15 Limitation on Benefits. Nothing in this Agreement, whether express or implied, shall be construed to give any Person other than Borrower and Lender any legal or equitable right, remedy or claim under or in respect of this Agreement or any Note.

10.16 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement (or of any agreement or document required by this Agreement and any amendment to this Agreement) by telecopy or other electronic imaging means shall be as effective as delivery of a manually executed counterpart of this Agreement; provided, however, that the telecopy or other electronic image shall be promptly followed by an original if required by Lender.

10.17 Entire Agreement. This Agreement and the other Loan Documents contain the entire agreement of the parties and supersede all prior agreements among the parties with respect to the subject matter hereof, including, but not limited to, the commitment letter concerning this credit. The parties agree that the Commitment Letter is incorporated in and made a part of this Agreement, provided, however, that in the event of any conflict between the terms of the Commitment Letter and this Agreement, or any other Loan Documents, the provisions of this Agreement or any other Loan Documents shall control.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed under seal as of the date above first written.

BORROWER:

INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia

By:_______________________________________
T. Neal Morris, Chairman

LENDER:

AMERICAN NATIONAL BANK AND TRUST COMPANY, a national banking association

By:_______________________________________
Ted R. Laws, Senior Vice President

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY OF DANVILLE, to-wit:

The foregoing instrument was acknowledged before me in my jurisdiction aforesaid on this _____ day of August, 2023, by T. Neal Morris, acting in his capacity as Chairman of the INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia.

____
Notary Public

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY OF DANVILLE, to-wit:

The foregoing instrument was acknowledged before me in my jurisdiction aforesaid on this _____ day of August, 2023, by Ted R. Laws, acting in his capacity as Senior Vice President of AMERICAN NATIONAL BANK AND TRUST COMPANY, a national banking association.

____
Notary Public

PROMISSORY NOTE

Danville, Virginia
$980,853.91 **August 25, 2023**

FOR VALUE RECEIVED, the undersigned, the **INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia ("**Borrower**"), promises to pay to the order of **AMERICAN NATIONAL BANK AND TRUST COMPANY**, a national banking association ("**Lender**"), at 628 Main Street, Danville, Virginia 24541, or such other place as the Lender shall designate to the Borrower in writing the principal sum of **NINE HUNDRED EIGHTY THOUSAND EIGHT HUNDRED FIFTY THREE AND 91/100 DOLLARS** ($980,853.91), together with interest thereon at the rate or rates per annum designated herein computed on the basis of a 360-day year (366-day for a leap year) for the actual number of days in each interest period, pursuant to the Loan Agreement of even date herewith (the "**Loan Agreement**") by and among, the Borrower and the Lender. All capitalized terms used and not defined herein shall have the meaning set forth in the Loan Agreement. This Amended and Restated Promissory Note (this "**Note**") is made pursuant to the Loan Agreement and is given in replacement of and in substitution for, but not in payment of, a prior note dated on or about October 25, 2018 in the original principal amount of $1,285,942.00, given by Borrower in favor of the Lender (or its predecessor-in-interest), as the same may have been amended or modified from time to time (the "**Original Note**"), in its entirety.

1. Interest Rate: This Note shall bear interest from the date hereof at a fixed rate per annum equal to seven and 25/100 percent (7.25%), compounded monthly.

2. Repayment Terms: This Note shall be paid in fifty-nine (59) equal consecutive monthly installments of principal and interest in the amount of $11,566.62 each, beginning October 10, 2023, and continuing on the tenth day of each month thereafter, in an amount sufficient to fully amortize the unpaid balance of the Note over a period of one hundred twenty (120) months, with one (1) final payment of all outstanding principal, accrued interest, and other charges, if not sooner paid, due and payable on September 10, 2028 (the "**Maturity Date**").

3. Loan Proceeds: The loan proceeds evidenced by this Note are being used by Borrower, in accordance with Section 15.2-4905(4) of the Code of Virginia, 1950, as amended (the "**Code**"), in connection with the extension and renewal of a loan related to the original acquisition, purchase, and/or improvement of "authority facilities", as defined in Section 15.2-4902 of the Code. The Note is payable by Borrower from its revenues and receipts generally, as permitted by Section 15.2-4908(A)(i) of the Code.

4. Borrower Representations and Warranties: Borrower hereby represents and warrants to Lender as follows:

   (a) Borrower is a political subdivision of the Commonwealth of Virginia, duly organized, validly existing, and in good standing under the laws of the

Commonwealth of Virginia and is authorized to transact business in all jurisdictions in which Borrower currently conducts any business.

(b) Borrower has been duly authorized to enter into this Note, the Security Documents, the Loan Agreement and any other documents to be executed by Borrower in connection herewith and therewith.

(c) This Note, the Security Documents, the Loan Agreement, and the transactions contemplated herein and therein, have been approved by all necessary action of the governing body of Borrower; and the persons executing this Note and Loan Agreement have full and complete authority to execute and deliver the same for and on behalf of Borrower.

(d) The execution, delivery, and performance of this Note, the Security Documents, and the Loan Agreement, and the consummation of the transactions contemplated hereby and thereby by Borrower, will not violate, conflict with, or result in any default under, or cause any acceleration of any obligation under (i) any existing contract, agreement, note, or other documents to which Borrower is a party or by which Borrower is bound; (ii) any orders, decrees, or laws of any jurisdiction application to and binding upon Borrower; or (iii) any of the governing documents of Borrower.

(e) This Note, the Security Documents, and the Loan Agreement each constitute the legal, valid, binding, and enforceable obligations of Borrower in accordance with the terms contained herein or therein.

5. Application of Payments: All payments made on this Note or any prepayment made in accordance with the terms hereof shall be applied, to the extent thereof, first to late charges, second to any costs, expenses, fees or other charges due and unpaid to Lender under this Note or any other document securing this Note, third to accrued but unpaid interest, and lastly to unpaid principal. Acceptance by Lender of any payment in an amount less than the amount then due on any indebtedness shall be deemed an acceptance on account only and shall not in any way excuse the existence of an Event of Default.

6. Prepayment: The Borrower shall have the privilege to prepay the principal and any accrued but unpaid interest, in full or in part at anytime without penalty or premium. Early payments will not, unless agreed to in writing by Lender, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse" or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. Any prepayment shall be applied in the manner provided herein, except that any amount thereof applied to reduction of outstanding principal shall be applied to installments of principal in inverse order of maturities.

7. Late Charge on Default: Time is of the essence of this Note. To the extent not prohibited by law, a late charge of five percent (5%) or the applicable statutory maximum, whichever is greater, shall be assessed on any installment, whether of principal or interest, remaining past due for ten (10) days or more.

8. Increased Costs: If the Lender shall determine that, due to either (a) the introduction of any change in (or in the interpretation of) any requirement of law or (b) compliance with any guideline or request from any central bank or other governmental or regulatory authority (whether or not having the force of law), there shall be any increase in the cost to the Lender of agreeing to make or making, funding or maintaining any loans hereunder, then Lender shall be liable for, and shall from time to time, upon demand therefor by the Lender, pay to the Lender such additional amounts as are sufficient to compensate the Lender for such increased costs.

9. Collateral; Cross-Default; Moral Obligation:

(a) This Note is secured by: (i) that certain Credit Line Deed of Trust dated September 16, 2013, executed by Borrower and recorded in the Clerk's Office of the Circuit Court of Danville, Virginia ("**Clerk's Office**") on September 17, 2013 as Instrument No. 13-3770 (the "**Deed of Trust**"), encumbering real estate known as 979 Lockett Drive (formerly referred to as 979 and 1000 Lockett Drive) (Tax PINs 75918, 78267, and 78545), and improvements thereon, located in the City of Danville, Virginia (the "**Property**"); and (ii) that certain Assignment of Rents dated September 16, 2013, executed by Borrower and recorded in the Clerk's Office as Instrument No. 13-3771 (the "**Assignment of Rents**").

(b) This Note is cross-defaulted with (i) that certain Credit Line Deed of Trust dated April 30, 2013, executed by Borrower and recorded in the Clerk's Office on May 1, 2013, as Instrument No. 13-1581 (the "**Cross-Defaulted Deed of Trust**"), encumbering real estate known as 527 Bridge Street (Tax PINs 21487 and 216821), and improvements thereon, located in the City of Danville, Virginia; and (ii) that certain Assignment of Rents dated April 30, 2013, executed by Borrower and recorded in the Clerk's Office on May 1, 2013 as Instrument No. 13-1582 (the "**Cross-Defaulted Assignment of Rents**").

(c) The Deed of Trust, Assignment of Rents, Cross-Defaulted Deed of Trust, and the Cross-Defaulted Assignment of Rents are collectively referred to herein as the "**Security Documents**".

(d) This Note and any and all other related documents are executed and delivered by Borrower to Lender in accordance with and subject to the terms and conditions of the Loan Agreement, and the related loan commitment letter dated July 26, 2023 (the "**Commitment Letter**").

(e) Additionally, the City of Danville, Virginia, in support of the loan evidenced by this Note, has entered into that certain Moral Obligation Agreement (the "Moral Obligation Agreement") with respect to this loan.

(f) Reference is here made to the Security Documents, the Loan Agreement, Moral Obligation Agreement, and related documents for a more particular description of the Property and collateral pledged and assigned and the provisions with respect to the nature and extent of the security for this Note, the rights, duties and obligations of Borrower and the rights of Lender with respect thereto.

10. Events of Default; Acceleration: Following an Event of Default (as hereafter defined), Lender may at its option declare the entire principal balance and all accrued interest hereon to be immediately due and payable. It shall be an event of default ("**Event of Default**") under this Note if any one or more of the following occurs:

(a) failure by Borrower or any other obligated party to pay when due any payment of interest, principal, principal and interest, commitment fees, deposits, or other payments which are due and payable under this Note, the Security Documents, Loan Agreement or any other document executed in connection therewith or as security therefor, if such failure continues for ten (10) days after written notice to Borrower that such payment is overdue;

(b) failure by Borrower or any other party (other than Lender) to keep, perform or observe any covenant, term or condition required to be kept, performed or observed by Borrower or such party under this Note, the Security Documents, the Loan Agreement, or any other document executed in connection therewith or as security therefor, if such failure continues for thirty (30) days after written notice to Borrower of such failure;

(c) if Borrower (i) files a petition or has a petition filed against it under the Bankruptcy Code or any proceeding for the relief of insolvent debtors; (ii) benefits from or is subject to the entry of an order for relief by any court of insolvency; (iii) makes an admission of insolvency seeking the relief provided in the Bankruptcy Code or any other insolvency law; (iv) makes an assignment for the benefit of creditors; (v) has a receiver appointed, voluntarily or otherwise, for its property; (vi) permits a judgment in the amount of $25,000.00 or more to be obtained against it, which is not promptly paid or promptly appealed and secured pending appeal; or (vii) becomes insolvent, however otherwise evidenced;

(d) if any material representation, warranty or certificate given by Borrower herein or in connection with the loan evidenced by this Note or at any time hereafter required to be given by Borrower hereunder shall be false or erroneous in any material respect when made if not corrected or remedied within thirty (30) days after written notice to Borrower; or

(e) a material breach of or a material failure of performance by Borrower of any provision of or the occurrence of any default under the terms and provisions of the Loan Agreement, the Security Documents, the or any document executed in conjunction with this Note, if such breach or failure continues for thirty (30) days after written notice to Borrower of such breach or failure.

As soon as possible and in any event within two days after Borrower becomes aware that an Event of Default has occurred, Borrower shall notify the Lender in writing of the nature and extent of such Event of Default and the action, if any, it has taken or proposes to take with respect to such Event of Default.

Upon the occurrence of an Event of Default (subject to any rights to cure such default) (i) the remaining unpaid principal of this Note and all accrued and unpaid interest thereon shall immediately become due and payable, at the option of the holder hereof, and (ii) the holder of this Note shall be entitled to interest on the unpaid balance of this Note at the interest rate stated herein plus six percent (6%), unless otherwise required by law, until paid in full. The Lender shall be entitled to recover all expenses, including reasonable attorneys' fees and expenses of legal counsel, incurred by the Lender in any way arising from or relating to the enforcement or attempted enforcement of this Note, the Loan Agreement, and/or any other guaranty of the obligations under this Note and the collection or attempted collection, whether by litigation or otherwise, of this Note, the Loan Agreement, and/or any other guaranty of the obligations under this Note. Failure to exercise this option in the Event of Default shall not constitute a waiver of the right to exercise the same in any subsequent Event of Default.

THIS PROMISSORY NOTE IS CROSS-DEFAULTED WITH THAT CERTAIN PROMISSORY NOTE OF EVEN DATE IN THE PRINCIPAL AMOUNT OF $569,958.34 EXECUTED BY THE UNDERSIGNED IN FAVOR OF LENDER ("527 BRIDGE STREET NOTE"), TOGETHER WITH ALL OTHER PROMISSORY NOTES NOW OR HEREAFTER EXECUTED BY THE UNDERSIGNED IN FAVOR OF LENDER. THE OCCURRENCE OF A DEFAULT UNDER THIS NOTE, THE 527 BRIDGE STREET NOTE, OR ANY OTHER PROMISSORY NOTE EXECUTED BY THE UNDERSIGNED IN FAVOR OF LENDER, WHETHER NOW IN EXISTENCE OR HEREAFTER CREATED, SHALL BE AND CONSTITUTE A DEFAULT UNDER ALL SUCH PROMISSORY NOTES, ENTITLING LENDER TO ALL REMEDIES CONTAINED HEREIN, THEREIN AND IN ALL OTHER LOAN DOCUMENTS AND UNDER VIRGINIA LAW.

11. Governing Law; Changes: THIS NOTE MAY NOT BE CHANGED ORALLY AND SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF VIRGINIA WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. This Note has been accepted by Lender in the Commonwealth of Virginia. Borrower submits (and waives all rights to object) to exclusive personal jurisdiction in the Commonwealth of Virginia, and venue in the City of Danville, for the enforcement of any and all obligations under this Note. **To the fullest extent permitted by applicable law, Borrower hereby waives the right to trial by jury in any action, suit, counterclaim or proceeding arising out of or related to this Note or the obligations evidenced thereby.**

12. Note Subject to Agreement. This Note is made pursuant to the Loan Agreement, and is subject to, among other things, acceleration as provided therein; provided, however, neither this reference to the Loan Agreement nor any provision thereof shall affect or impair the obligation

of the undersigned to pay the principal of and interest on this Note as herein provided. Lender shall have all of the rights and powers set forth in the Loan Agreement as though they were fully set forth herein.

13. Creditor Rights. The rights and remedies of Lender in and under this Note, or at law or in equity, shall be cumulative and concurrent and may be pursued singly, successively or together, in Lender's sole discretion. The rights and remedies herein provided shall not be exclusive of any other rights or remedies provided by law or set forth in the Loan Agreement, and Lender shall be entitled to any and all rights and remedies hereunder, under the Loan Agreement and/or under applicable law.

14. Waiver of Presentment, Dishonor, Notice of Dishonor, and Protest. Presentment for payment, demand, protest and notice of demand, protest and nonpayment and all other notices are hereby waived by the Borrower. The Borrower hereby further waives and renounces, to the fullest extent permitted by law, all rights to the benefits of any moratorium, reinstatement, marshaling, forbearance, valuation, stay, extension, redemption, appraisement, exemption and homestead now or hereafter provided by the Constitution and laws of the United States of America and of each state thereof both as to itself and in and to all of its property against the enforcement and collection of the obligations evidenced by this Note.

15. No Waiver of Lender's Rights; Amendment. No failure to accelerate the indebtedness evidenced hereby by reason of default hereunder, acceptance of a partial or past due payment, or indulgences granted from time to time shall be construed (a) as a novation of this Note or as a reinstatement of the indebtedness evidenced hereby or as a waiver of such right of acceleration or of the right of Lender thereafter to insist upon strict compliance with the terms of this Note, or (b) to prevent the exercise of such right of acceleration or any other right granted hereunder or by any applicable laws; and the Borrower hereby expressly waives the benefit of any statute or rule of law or equity now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the foregoing. No waiver by Lender of any Event of Default shall be deemed a continuing waiver, and no delay or refusal to act by Lender shall constitute a waiver, election, or acquiescence by it. No amendment or renewal of this Note or extension of time for the payment of this Note or any installment due hereunder made by agreement with any person now or hereafter liable for the payment of this Note shall operate to release, discharge, modify, change or affect the original liability of Borrower under this Note, either in whole or in part, unless Lender agrees otherwise in writing. This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

16. Payments Not to Violate Law: Nothing herein contained nor any transaction related thereto shall be construed or so operate as to require the Borrower to pay interest at a rate greater than it is now lawful in such case to contract for under applicable law, or to make any payment or to do any act contrary to applicable law, and the Lender shall reimburse the Borrower for any interest paid in excess of the highest rate allowed by applicable law or any other payment which may inadvertently be required by the Lender to be paid contrary to applicable law; and if any clauses or provisions herein contained operate or would prospectively operate to invalidate this Note, in whole or in part, then such clauses and provisions only shall be held for naught, as though

not herein contained, and the remainder of this Note shall remain operative and in full force and effect.

17. Notices: All notices or demands to a party shall be in writing. Notices or demands shall be deemed to have been duly given (a) when personally delivered, (b) ten (10) business days after mailed by first class mail, postage prepaid, addressed as follows (to the extent applicable for mailing), or (c) the next "Business Day" (as hereafter defined) after sent by regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, addressed as follows (to the extent applicable for overnight delivery):

If to Borrower:	Industrial Development Authority of Danville, Virginia c/o City Attorney 421 Municipal Building (24541) P.O. Box 3300 (24543) Danville, Virginia
With a Copy to:	City Attorney The City Attorney's Office P. O. Box 3300 Danville, Virginia 24543
If to Noteholder:	American National Bank and Trust Company 628 Main Street Danville, Virginia 24541 Attention: President

Any party may change the address to which notices hereunder are to be sent to it by giving written notice of such change, in the manner herein provided, to all other parties. A notice given hereunder may be delivered by hand delivery, deposited with the United States Postal Service properly addressed and postage prepaid, or delivery to a courier service properly addressed with all charges prepaid, as appropriate. For the purposes of this Agreement, "Business Day" shall mean any day other than a Saturday, Sunday or legal holiday in the Commonwealth of Virginia or observed by the City of Danville, Virginia.

18. Amended and Restated Note: Borrower acknowledges, agrees and understands that this Note is given in replacement of and in substitution for, but not in payment of, the Original Note, and further, that: (a) the obligations of Borrower as evidenced by the Original Note shall continue in full force and effect, as amended and restated by this Note, all of such obligations being hereby ratified and confirmed by Borrower; (b) any and all liens, pledges, assignments and security interests securing Borrower's obligations under the Original Note shall continue in full force and effect, are hereby ratified and confirmed by Borrower, and are hereby acknowledged by Borrower to secure, among other things, all of Borrower's obligations to the Lender under this Note, with the same priority, operation and effect as that relating to the obligations under the Original Note; and (c) nothing herein contained shall be construed to extinguish, release, or discharge, or constitute, create, or effect a novation of, or an agreement to extinguish, the obligations of

Borrower with respect to the indebtedness originally described in the Original Note or any of the liens, pledges, assignments and security interests securing such obligations.

19. Miscellaneous: This Note, together with any related loan and collateral agreements and guaranties, contains the entire agreement between the Lender and Borrower with respect to the Note, and supersedes every course of dealing, other conduct, oral agreement and representation previously made by the Lender. All rights and remedies of the Lender under applicable law and this Note or amendment of any provision of this Note are cumulative and not exclusive. Borrower agrees that in any legal proceeding, a copy of this Note kept in the Lender's course of business may be admitted into evidence as an original. As used herein, the terms "Borrower" and "Lender" shall be deemed to include their respective successors, legal representatives and assigns, whether by voluntary action of the parties or by operation of law. This Note is a binding obligation enforceable against Borrower and its successors and assigns and shall inure to the benefit of the Bank and its successors and assigns. Singular number includes plural and neuter gender includes masculine and feminine as appropriate. Upon the request of the Lender, Borrower shall execute and deliver such further instruments and do or cause to be done such further acts as may be necessary or advisable to carry out the intent and purposes of this Note and the Loan Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Note has been executed under seal as of the day and year first above written.

INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia

By: ______________________________________
T. Neal Morris, Chairman

COMMONWEALTH OF VIRGINIA, AT LARGE

CITY OF DANVILLE, to-wit:

The foregoing instrument was acknowledged before me in my jurisdiction aforesaid on this _____ day of August, 2023, by T. Neal Morris in his capacity as Chairman of **INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA,** a political subdivision of the Commonwealth of Virginia.

My commission expires:______________________________.

Registration No.__________________

____
Notary Public