



INDUSTRIAL DEVELOPMENT AUTHORITY REGULAR MEETING AGENDA

4TH FLOOR CONFERENCE ROOM

June 11, 2024

10:30 AM

A. CALL TO ORDER

B. ROLL CALL

C. MEETING MINUTES

1. Approval of IDA Minutes for the Meeting of May 14, 2024

D. FINANCIAL REPORT

1. IDA Statement of Accounts As of May 31, 2024

E. STAFF UPDATES

F. ACTION ITEMS

1. Request from the River District Association to use the vacant building at 628 N Main Street for the True North Speaker Series Celebration event.
2. Consideration of Revised Letter of Intent (LOI) for the former Hylton Hall Property

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

1. There may be action taken after the closed meeting.

H. NEW BUSINESS

1. May have to set a date for a special Meeting to be held in June.

I. ADJOURN

**INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA
MINUTES OF MEETING
MAY 14, 2024**

Pursuant to a Written Notice, a copy of which is attached hereto, a Regular 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, May 4, 2024, at 10:30 a.m.

THE FOLLOWING MEMBERS WERE PRESENT AND ABSENT:

PRESENT: T. Neal Morris, Chairman
Russell Reynolds, Vice Chairman
John Laramore, Secretary/Treasurer (came in late)
Kristen Barker
Philip Hall
Robert Woodall

ABSENT: Dave Cumbo

ALSO PRESENT: W. Clarke Whitfield, Jr., City Attorney
Terri McDaniel, Legal Secretary
Kelvin Perry, Economic Development
Susan McCulloch, Economic Development
Corrie Bobe, Director, Economic Development
Samantha Bagby, Project Manager, Economic Development
Michael Adkins, Chief Financial Officer, Finance Department
Ken Larking, City Manager
Stephen Gould
Chris Albrecht

T. Neal Morris, Chairman, called the meeting to order at 10:30 a.m.

ROLL CALL

MINUTES

COPIES OF THE MINUTES OF THE APRIL 9, 2024, REGULAR CALLED MEETING WERE DISTRIBUTED TO THE MEMBERS WITH THEIR AGENDA PACKETS. A MOTION WAS MADE BY MR. REYNOLDS TO APPROVE THE MINUTES AS PRESENTED. THE MOTION WAS SECONDED BY MR. HALL AND CARRIED WITH THE MEMBERS PRESENT VOTING AS FOLLOWS:

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE

MR. LARAMORE	- AYE
MS. BARKER	-AYE
MR. HALL	- AYE
ROBERT WOODALL	- AYE

FINANCES

MICHAEL ADKINS, THE CHIEF FINANCIAL OFFICER AND DIRECTOR OF FINANCE, PROVIDED THE MEMBERS OF THE IDA BOARD AT THE MEETING WITH A PACKET OF THE CURRENT FINANCIAL STATEMENTS OF THE IDA.

A MOTION WAS MADE BY MR. HALL TO APPROVE THE FINANCIAL REPORT. THE MOTION WAS SECONDED BY MR. REYNOLDS AND CARRIED WITH MEMBERS PRESENT VOTING AS FOLLOWS:

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE
MR. LARAMORE	- AYE
MS. BARKER	-AYE
MR. HALL	- AYE
ROBERT WOODALL	- AYE

STAFF UPDATES

KELVIN PERRY REPORTED THAT THERE HAD BEEN A VERY GOOD RESPONSE TO THE PARKING ENFORCEMENT SURVEY FROM DANVILLE CITIZENS WITH A MAJORITY EXPRESSING A NEED FOR IMPROVEMENT IN AVAILABLE PARKING IN THE RIVER DISTRICT.

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; SECONDED BY MR. LARAMORE

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE
MR. LARAMORE	- AYE
MRS. BARKER	- AYE
MR. HALL	- AYE
ROBERT WOODALL	- AYE

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. HALL	- AYE
ROBERT WOODALL	- 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. HALL; SECONDED BY MR. WOODALL

MR. MORRIS	- AYE
MR. REYNOLDS	- AYE
MR. LARAMORE	- AYE
MRS. BARKER	- AYE
MR. HALL	- AYE
ROBERT WOODALL	- AYE

ADJOURN

JOHN LARAMORE
SECRETARY

T. NEAL MORRIS
CHAIRMAN

**Industrial Development Authority
Statement of Accounts
As of May 31, 2024**

Regular Checking	\$ 629,774.51
USDA Loan Account	\$ 78,662.37
City Funded Loan Account	\$ 2,021,861.62
North Union Properties/Master Tenant	\$ 30,822.31
Reserve Account	\$ 4,890,737.30

Reserve Account Details

<i>Hold for FY23 Debt Svc</i>	232,332.21
<i>Hold for Imperial Warehouse</i>	650,000.00
<i>Hold for Enterprise Zone</i>	430,905.00
<i>Hold for Dan River Falls</i>	1,143,350.29
<i>Hold for FY22 Edev Incentives</i>	1,962,612.00
<i>Hold for FY23 Edev Incentives</i>	367,925.58
<i>Hold for 217 N Union</i>	37,000.00
<i>Hold for 121/123 N Union</i>	66,612.22
<i>Available</i>	-
	4,890,737.30

City Funded Loans:

Beginning Balance May 1, 2024	\$ 2,002,366.54
The Bee - Monthly Payment	18,179.41
Southside Ice - Pmt from Bankruptcy Trustee	109.32
Uncle Al's Diner	1,132.28
Interest /Bank Fees	74.07
Ending Balance May 31, 2024	\$ 2,021,861.62

Industrial Development Authority
Statement of Account - Regular Checking
For the month ended May 31, 2024

Beginning Balance at May 1, 2024 \$ 664,207.77

RECEIPTS:

Rent: 82,499.59

Utility/Insurance Reimbursement:

DR Foundation	3,176.68	
Averett	<u>4,592.14</u>	7,768.82

Transfer In - Project Funding 5,609.05

Transfer In - from Reserve Acct 310,100.10

River District Assoc - Contribution Bldg 75,000.00

Interest Income/Wire Fees (2.85)

DISBURSEMENTS:

AMNB Loan - Lockett Drive	(11,566.62)
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	(6,721.18)
AMNB - 1350 Barker Road	(7,306.55)
First National - Gaither Rd Prop	(3,136.84)
Movement Bank - Monument	(2,651.24)
US Bank Bond Debt Service	(323,766.77)
Architectural Partners - DR Falls	(57,000.00)
Kent Shelton - Dan River Falls	(2,772.00)
Brown Edwards - Acctg Svs	(3,370.00)
Estes Law & Consulting	(2,000.00)
City of Danville - Real Estate Tax	(22,267.98)
Beechgrove Design	(9,191.40)
Timmons Group	(17,625.00)
Utility Bills/Elevator Maint	(15,376.04)
Insurance	<u>(3,583.74)</u>

125 N Union	250.00
Averett	-
Barry Smith	260.00
Belk	14,205.00
City - Gang Prev.	1,500.00
City - IT Dept.	11,360.00
DR Foundation	5,610.00
Earnhardt Plumbing	2,556.55
Launch Place	-
Link's Café	3,000.00
MEP	398.92
Mind Body Wellness	1,800.00
Morrisette Paper	6,762.61
Overfinch	12,587.80
River District Assoc	1,585.00
Riverside Running	2,812.48
Robert Stephens	50.00
Sth VA Legal	1,575.00
Vintages	1,347.00
Walraven	<u>14,839.23</u>
	82,499.59

From City for Incentives (515,407.97)

Incentive - Enterprise Zone

Ending Balance at May 31, 2024 \$ 629,774.51

Industrial Development Authority
Statement of Account
USDA Loan Funds

For the month ended May 31, 2024

Beginning Balance at May 1, 2024 \$ 78,393.40

RECEIPTS:

Dry Fork Fruit Dist.	266.07	
River City Escapes	-	
Interest	2.90	
		268.97

DISBURSEMENTS:

-

-

Ending Balance at May 31, 2024 \$ 78,662.37

Reconciliation to original USDA grant of \$99,000

ORIGINAL USDA FUNDS \$ 99,000.00

LESS OUTSTANDING LOANS:

River City Escapes	12,043.59	
Dry Fork Fruit Dist.	9,652.87	(21,696.46)

INTEREST EARNED 20,766.53

DEFAULTED LOANS (19,457.70)

PENALTIES EARNED 50.00

BALANCE IN ACCOUNT \$ 78,662.37

Industrial Development Authority of Danville
A/R Aging Summary
As of May 31, 2024

	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL
127 North Union	0.00	315.00	315.00	0.00	8,820.00	9,450.00
A La Carte	0.00	0.00	0.00	0.00	533.00	533.00
Averett University	0.00	11,390.00	0.00	0.00	0.00	11,390.00
Belk United Electronic Services	-7,102.50	0.00	0.00	0.00	0.00	-7,102.50
GSO Aviation	0.00	2,512.73	0.00	0.00	0.00	2,512.73
J&W Associated LLC dba Links Cafe	0.00	3,194.88	3,000.00	0.00	300.00	6,494.88
Lou's Antiques Co	0.00	0.00	0.00	0.00	26,000.00	26,000.00
Mind Body Wellness Pilates LLC	-900.00	0.00	0.00	0.00	0.00	-900.00
Overfinch North America	0.00	7,181.58	0.00	0.00	0.00	7,181.58
PLDR Law Office	0.00	194.16	0.00	0.00	0.00	194.16
River District Association	-1,585.00	0.00	0.00	0.00	0.00	-1,585.00
Riverside Running Co., LLC	0.00	715.68	0.00	0.00	0.00	715.68
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	0.00	3,433.12	0.00	0.00	0.00	3,433.12
Unison Tube, LLC	0.00	0.00	0.00	0.00	69,032.50	69,032.50
Vintages by the Dan	0.00	97.32	0.00	0.00	0.00	97.32
Walraven	0.00	14,839.23	0.00	0.00	0.00	14,839.23
TOTAL	-9,587.50	42,548.70	3,407.00	0.00	104,685.50	141,053.70



Industrial Development Authority

STAFF REPORT

DATE: June 11, 2024
TO: Industrial Development Authority
FROM: Samantha Bagbey, Project Manager
RE: Request from the River District Association to use the vacant building at 628 N Main Street for the True North Speaker Series Celebration event.

Request to use the building to showcase art by local, black female artists during the art walk portion of the True North Speaker Series Celebration event on June 19, 2024, from 4:00pm-8:30pm.

ATTACHMENTS

1. 1389-IDA RES-Use of IDA Parcel 00050 during the True North Speaker Event

PRESENTED: June 11, 2024

ADOPTED: June 11, 2024

RESOLUTION NO. 2024-____.____

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA (IDA) APPROVING AND AUTHORIZING THE RIVER DISTRICT ASSOCIATION TO USE THE IDA PROPERTY LOCATED AT 628 N. MAIN STREET AND IDENTIFIED AS PARCEL ID# 00050, FOR ACTIVITIES DURING THE JUNE 19, 2024, TRUE NORTH SPEAKER SERIES CELEBRATION EVENT.

WHEREAS, the River District Association (RDA) has the True North Speaker Series celebration event scheduled for June 19, 2024, from 4:00 pm to 8:30 pm and is requesting to use the building with setup time beginning at 12:00 pm; and

WHEREAS, the building will hold and showcase art from local, black female artists for the evening; and

WHEREAS, the RDA would like approval from the Industrial Development Authority of Danville, Virginia (IDA) to use the building located at 628 North Main Street identified as Parcel # 00050 for the art display for attendees to walk in, browse, and continue down the art walk portion of the celebration.

NOW THEREFORE, BE IT RESOLVED by the Industrial Development Authority of Danville, Virginia that it hereby approves and authorizes the River District Association to use the building located at 628 N. Main Street identified as Parcel # 00050 on June 19, 2024 from

12:00 pm to 8:30 pm for art to be displayed during the True North Speaker Series Celebration event; and

BE IT FURTHER RESOLVED that the River District Association will provide a Certificate of Insurance and Policy Endorsement evidencing at least One

Million Dollars (\$1,000,000) in liability insurance naming the IDA as an additional insured; and

BE IT FINALLY RESOLVED by the Industrial Development Authority of Danville, Virginia, that it hereby directs the Chairman, or in his absence, any officer, to execute any and all documents as necessary to complete the transactions described in the above resolution.

Approved:

Chairman

Attest:

Secretary

Approved as to
Form and Legal Sufficiency:

City Attorney



**Industrial Development
Authority**

STAFF REPORT

DATE: June 11, 2024
TO: Industrial Development Authority
FROM:
RE: Consideration of Revised Letter of Intent (LOI) for the former Hylton Hall Property

ATTACHMENTS

1. 1401 RES- 2024-06-11 Hylton Hall Parcel 51587
2. 1401-Attachment RES Hylton Hall Revised for 6-11-24-Final-CW

PRESENTED: June 11, 2024

ADOPTED: June 11, 2024

RESOLUTION NO. 2024-____.____

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING AN AMENDED LETTER OF INTENT FOR PROPERTY LOCATED ON LANIER AVENUE IN THE SCHOOLFIELD DISTRICT, COMMONLY KNOWN AS THE HYLTON HALL SITE.

WHEREAS, Industrial Development Authority of Danville, Virginia, (IDA) approved and authorized the IDA to enter into a Letter of Intent (LOI), for property located on Lanier Avenue in the Schoolfield District, commonly known as the Hylton Hall site, Parcel ID# 51587, with Tonya A. Haddock; and

WHEREAS, Ms. Haddock wishes to amend the agreement by substituting Mid-Atlantic Foundation for herself as a Party to the agreement as well as the changes noted on the attached LOI.

NOW THEREFORE, BE IT RESOLVED, by the Industrial Development Authority of Danville, Virginia, (IDA) that the Authority hereby approves and authorizes the IDA to enter into a Letter of Intent, substantially in the form attached hereto, for property located on Lanier Avenue in the Schoolfield District, commonly known as the Hylton Hall site, Parcel ID# 51587, with the Mid-Atlantic Foundation; and

BE IT FURTHER RESOLVED, that the LOI shall be in place until January 31, 2025; and

BE IT FINALLY RESOLVED, that the Authority hereby directs the Chairman, or in his absence any officer, to execute the LOI and any other documents necessary to complete the transaction described in this resolution.

Approved:

Chairman

Attest:

Secretary

Approved as to
Form and Legal Sufficiency:

City Attorney

Letter of Intent

THIS LETTER OF INTENT (this “**LOI**”) is made as of the 11th day of June, 2024 by and between the **INDUSTRIAL DEVELOPMENT AUTHORITY of DANVILLE VIRGINIA**, a political subdivision of the Commonwealth of Virginia (“**IDA**”); and Mid-Atlantic Foundation (the “**Company**”).

This LOI sets the principal terms of the proposed transaction upon which IDA and the Company intend to proceed with further discussions. The proposed transaction is for the Company to construct quality, voucher-based senior housing at Parcel ID 51587 on Lanier Avenue (known as the former Hylton Hall property) in Danville, Virginia.

Background

Emily and David Weil incorporated The Mid-Atlantic Foundation in order to build the funds needed to perpetuate gifts they had been making for years to local charities and to the University of North Carolina and East Carolina University. The initial “purposes” of the foundation, as described in the Articles of Incorporation, was “for charitable, religious, educational and scientific purposes including the making of distributions to organization that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code”. In 2001 the purposes of the foundation were amended to add the following additional purpose: (3)(a) “Subject to the provisions of subparagraph (b) the Corporation is organized to provide affordable housing and related services to low and moderate-income persons.”. Over the years, the Foundation has sponsored the construction of more than 4,000 affordable housing units and has provided pass-through loans totaling more than \$7 million to aid in the construction and development of affordable apartments. In addition, the Foundation holds limited partnership interests in more than 30 affordable housing projects. At the end of 2019, the Foundation has made gifts to the universities and other local non-profits totaling in excess of \$500,000.

Purpose

This LOI is intended to set forth the structure of a sale of the subject property to the Company for the purpose of a multifamily residential project in the Schoolfield District that helps meet a demonstrated need in Danville’s housing market, as identified by studies conducted by the City of Danville and its partner agencies.

Key Terms and Elements

The execution of this LOI by the parties shall constitute approval and acceptance of the principal terms stated herein upon which the parties shall proceed with further discussions. It is understood, however, that the respective obligations of the parties are subject in all respects to the execution and delivery of a Definitive Agreement, and this LOI is not intended to constitute a legally binding obligation of either party except with respect to the obligations contained in “**Legally Binding LOI Provisions**” below. The Definitive Agreement shall not be of legal effect until approved by the governing body of the IDA. The key terms and elements of the proposed transaction would be as follows:

1. **State of Domicile; New Virginia Entity.** If not already in place, within 90 days after executing the Definitive Agreement, the Company would apply and obtain from the Virginia State Corporation Commission the authorization to transact business in the Commonwealth of Virginia.
2. **Investment** Within 2 years after the project start date, the Company would complete the following:
 - a. **Capital Investment:** New Construction for Senior Housing totaling capital investments of at least \$16 Million Dollars (\$16,000,000.00).
3. **Federal HUD 202 Grants and Tax Exempt Bond Financing through Virginia Housing.** This LOI will terminate if the Company does not receive the US Dept of Housing & Urban Development 202 Grant and/or tax exempt bond financing through Virginia Housing. In order to proceed with this LOI, Company must provide a copy of any award letter or notification and such other written proof as requested by the IDA.
4. **Property Considerations: Land Gift / Grant Value of \$100,000.** The IDA may be willing to provide the Company the land at a cost below the market value, subject, however, to the securitization of the Company's obligation to meet performance parameters of capital investment and suitability to filling a gap in Danville's housing market, on such mutually acceptable terms and conditions to be set forth in the Definitive Agreement. The Definitive Agreement would provide that the Grant Value of the Land Gift under this Section would be credited toward the Company's total capital investment of \$16,000,000 during the performance period.
5. **Grant Equal to the sum of the Exclusivity and Access Fee (as defined below) and the Extension Fee (as defined below) – Value of up to \$5,000** The IDA would provide the Company with a grant equal to the sum of the Exclusivity and Access Fee and the Extension Fee (if any), as paid to IDA as set forth in Paragraph E below, conditioned upon the Company's fulfillment of the performance obligations under the Definitive Agreement. The grant would be paid by IDA within 60 days after the end of the performance period.
6. **Other Conditions prior to a Purchase and Sale agreement:**
 - a. The funding must be secured in order to move forward.
 - b. A construction timeline and agreed deadline with contract termination if not met.
 - c. A negotiated and approved by IDA purchase and sale agreement.
 - d. The project purpose, design, financials (rents/construction costs, Capital Investment), terms of the vouchers, materials, and other project parameters must be provided.
 - e. The eventual owner must provide their complete audited financials.

7. **Any sale of the property to the Company is contingent upon the IDA approving a Senior Housing Project and any approval shall be in sole discretion of the IDA.**

This LOI is not a commitment of funds to this particular project and is not legally binding, except as specifically provided below. (See “**Legally Binding LOI Provisions**”.) Any and all legally binding agreements, including without limitation those associated with funding, must be approved by the governing body of IDA.

Legally Binding LOI Provisions

- A. **Expiration.** The parties agree to negotiate in good faith the terms of the Definitive Agreement on or before **January 31, 2025** (the “**Expiration Date**”), provided, however that this LOI shall expire automatically if the Definitive Agreement is not duly executed and delivered by the parties by that date.
- B. **Confidentiality.** To the extent permitted by law, the parties agree to maintain the confidentiality of their discussions regarding the potential transaction, except that (i) each party may discuss relevant matters with their respective accountants, attorneys and other like advisors who shall be made aware of and agree to the confidentiality provisions of this LOI; and (ii) each party may discuss all relevant matters with the City of Danville, and all potential state grant sources; however, such party shall reasonably endeavor to minimize the disclosure to those entities except to the extent reasonably necessary to negotiate the Definitive Agreement.
- C. **Exclusive Negotiations.** Until the occurrence of the Expiration Date (the “**Exclusive Negotiations Period**”), the Company shall conduct exclusive negotiations and discussions with the IDA pertaining to the construction of a new multifamily dwelling in the City of Danville. During the Exclusive Negotiations Period, the IDA shall not engage in any negotiations concerning the grant, sale, lease or other development of the property, with anyone other than the Company and/or its affiliates. Notwithstanding the preceding sentence, the IDA may continue to actively market the development of the property and to provide information or data to any person or entity pertaining to the property. Moreover, IDA may disclose to third parties, without revealing the identity of the Company or its affiliates, the applicability of a letter of intent to the property. In the event that this LOI is terminated by IDA before the occurrence of the Expiration Date as set forth in Paragraph A above, IDA agrees not to enter into an agreement with any third party for the grant, sale, lease or other development of the property on or before the occurrence of the Expiration Date. The provisions of this Paragraph C shall specifically and without limitation survive the termination of this LOI.
- D. **Advance Access.**
1. Until the sooner to occur of the Expiration Date or the termination of this LOI (the “**Advance Access Period**”), the Company and its contractors, consultants,

employees, and other representatives (“**Permitted Parties**”) shall have the nonexclusive right to access and to conduct inspections of the property, in compliance with all applicable law, in order to determine if the property is acceptable to the Company in its sole discretion. The IDA does hereby grant to the Company and its Permitted Parties the right of entry upon the property from time to time during the Advance Access Period, at all reasonable times for the purpose of inspecting the property, subject, however, to at least 24-hours advance notice, which may be by email to Susan McCulloch (mcculuse@danvilleva.gov). Such inspections by the Company and Permitted Parties may include, but are not limited to, surveying, environmental tests, soil boring tests, subsurface soil or groundwater studies, wetlands assessments, utilities and site planning studies, and marketing and financial feasibility studies. The Company and its Permitted Parties shall abide by the reasonable rules, regulations, schedules, and conditions provided by the IDA or its engineers.

2. The Company acknowledges that on a regular basis, there are third parties conducting due diligence, installing utility facilities, exercising easement rights and performing other activities on or about the property. (“**Current IDA Development Activities**”). While exercising its inspection rights set forth herein, the Company shall not materially interfere, and shall cause Permitted Parties not to materially interfere, with Current IDA Development Activities. The Company shall promptly repair and restore the property to at least the same condition that existed immediately prior to the exercise of the Company’s and Permitted Parties’ inspection rights set forth herein. Except to the extent Losses (as hereafter defined) are directly and proximately caused by IDA’s willful misconduct, the Company does hereby agree to indemnify, defend, and hold harmless the IDA, its directors, officers, employees and agents (collectively, the “**Indemnified Parties**”), from any and all losses, costs, expenses, or damages, of any nature whatsoever (collectively, “**Losses**”), actually incurred by any one or more of the Indemnified Parties as a result, or consequence, of the Company exercising its inspection rights set forth herein. The Company and its Permitted Parties enter and exercise its inspection rights upon the property, “**AS IS**”, “**WITH ALL FAULTS**” and at their sole risk.
3. In the event this LOI expires or is terminated and a Definitive Agreement is not executed by the parties, the Company shall promptly furnish to the IDA, at no expense to the IDA, copies of any and all third-party inspection reports received by the Company related to any inspections performed on the property that are not proprietary information. Such reports furnished by the Company to the IDA shall be without warranty by the Company as to their contents, the completeness of the disclosure or the IDA’s rights or ability to rely upon any such reports or information.
4. For purposes hereof, the physical condition of the Property shall not be deemed proprietary to the Company. The provisions of this Paragraph D shall specifically and without limitation survive the termination or expiration of this LOI.

8. **Exclusivity and Access Fee.** In consideration of the grants of the Exclusive Negotiations Period and the Advance Access Period, the Company shall pay to the IDA a non-refundable Exclusivity and Access Fee equal to \$5,000 (the “**Exclusivity and Access Fee**”), within five business days after this LOI is fully executed by the parties.
- E. **Non-waiver.** No waiver of any term or condition of this LOI by any party shall be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of this LOI.
- F. **Notices.** Except as otherwise provided in Paragraph D above, all notices and other communications required or permitted to be given hereunder shall be in writing and shall be personally delivered, mailed by first class, certified, or registered mail, postage prepaid, or by private courier service which provides evidence of receipt as part of its service as follows:

If to IDA:

(Physical Address:)

Industrial Development Authority of
Danville, Virginia
Attn.: Neal Morris, Chairman
427 Patton Street
Danville, VA 24541

(Mailing Address:)

Industrial Development Authority of
Danville, Virginia
Attn: Neal Morris, Chairman
P.O. Box 3300
Danville, VA 24543

With a courtesy copy to:

W. Clarke Whitfield, Jr.
Office of the City Attorney
PO Box 3300
Danville, Virginia 24543

If to the Company:

The Mid-Atlantic Foundation
PO Box 2063
Goldsboro, NC 27533
Attention: Mr. David Weil

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 provided herein. A notice given hereunder shall be deemed given on the date of hand delivery, deposit 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. Courtesy copies provided under this paragraph are for the convenience of the parties and shall not themselves constitute proper notice hereunder.

G. Miscellaneous.

1. This LOI shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.
2. In the event any provision of this LOI is held to be invalid and unenforceable, such invalidity or unenforceability shall not affect the validity of enforceability of any other provisions hereof.
3. This LOI contains the entire agreement of the parties with respect to the subject matter hereof, and no representations, inducements, promises or agreements, oral or otherwise, not expressly set forth herein shall be of any force and effect. This LOI may not be modified except by written modification executed by all parties hereto.
4. This LOI shall be construed, governed and interpreted in accordance with the laws of the Commonwealth of Virginia. The parties hereby submit to the exclusive jurisdiction of the Circuit Court of the City of Danville, Virginia in any action or proceeding arising out of, or related to this LOI, and the parties hereby agree that all claims in respect of any action or proceeding shall be heard or determined only in such court. The parties agree that a final judgment in any action or proceeding shall, to the extent permitted by applicable law, be conclusive and may be enforced in other jurisdictions by suit on the judgment, or in any other manner provided by applicable law related to the enforcement of judgments.
5. No provision of this LOI shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party having or being deemed to have drafted or authored this LOI.
6. This LOI may be signed in any number of counterparts, each of which shall, for all purposes, constitute one and the same LOI.
7. Notwithstanding any termination, cancellation or expiration of this LOI, provisions which are by their terms intended to survive and continue shall so survive and continue.
8. This LOI may not be transferred or assigned without the express written permission of the IDA, in its sole discretion.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]
[SIGNATURES APPEAR ON NEXT PAGE.]

WITNESS the following signatures to this **LETTER OF INTENT** as of the date first above written.

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

By: _____
T. Neal Morris
Chairman

By: _____
Kenneth F. Larking
City Manager

Mid-Atlantic Foundation

By: _____
David Weil