



Industrial Development Authority of Danville, Virginia

P.O. Box 3300
Danville, Virginia 24543

May 3, 2018

NOTICE OF MEETING

To: T. Neal Morris C.G. Hairston
Richard Turner Russel D. Reynolds
Landon Wyatt Max Glass
John Laramore

A meeting of the Industrial Development Authority of Danville, Virginia has been called by the Chairman for **Tuesday, May 8, 2018, at **10:30 a.m.**** in the City Council Conference Room, 4th Floor, Room 425, Municipal Building, 427 Patton Street, Danville, Virginia.

This is an important meeting and your attendance is respectfully urged. If you cannot attend, please call the City Attorney's Office at 434-799-5122, as soon as possible.

/s/ Brooke Barksdale
Brooke Barksdale

Cc: Ken Larking, City Manager
Earl Reynolds, Deputy City Manager
W. Clarke Whitfield, Jr., City Attorney
Telly D. Tucker, Economic Development
Linwood Wright, Economic Development
Corrie Bobe, Economic Development
Kelvin Perry, Economic Development
Kim Custer, Economic Development
Michael Adkins, Director of Finance

**MEETING OF THE
INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA
TUESDAY, MAY 8, 2018**

AGENDA

CALL TO ORDER

ROLL CALL

INDUSTRIAL DEVELOPMENT AUTHORITY:

1. APPROVAL OF MINUTES FROM REGULARLY CALLED MEETING ON APRIL 10, 2018.
2. MONTHLY FINANCIAL REPORT BY MICHAEL ADKINS.

ITEMS FOR DISCUSSION

3. STAFF UPDATES FROM ECONOMIC DEVELOPMENT ON VARIOUS TOPICS:
 - A. MAINTENANCE REQUEST BY TENANT AT 422 INDUSTRIAL AVENUE
 - B. ANY OTHER OPEN SESSION UPDATES
4. A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING THE SALE OF PROPERTY LOCATED AT 187 CANE CREEK BOULEVARD ON OR AFTER MAY 8, 2018.
5. 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 THE DOWNTOWN DANVILLE ASSOCIATION DBA THE RIVER DISTRICT ASSOCIATION.
6. A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO EXECUTE A TERM LOAN COMMITMENT WITH VIRGINIA COMMUNITY CAPITAL IN AN AMOUNT NOT TO EXCEED \$1,274,032 FOR THE OUTSTANDING BALANCE OF THE UP FITS TO 500 CANE CREEK PARKWAY.
7. CLOSED MEETING

8. CONSIDER AND TAKE ACTION UPON ANY AND ALL BUSINESS THAT MAY BE LAWFULLY ENACTED AT A REGULAR MEETING OR DISCUSSED IN A CLOSED MEETING OF THE BOARD OF DIRECTORS OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA.

ADJOURN

INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA
MINUTES OF MEETING
April 10, 2018

PURSUANT TO A WRITTEN NOTICE DATED APRIL 4, 2018, 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, APRIL 10, 2018, AT 10:30 A.M.

THE FOLLOWING MEMBERS WERE PRESENT AND ABSENT:

PRESENT: T. NEAL MORRIS, CHAIRMAN
 C.G. HAIRSTON, VICE CHAIRMAN
 RICHARD L. TURNER, TREASURER
 RUSSELL D. REYNOLDS, SECRETARY
 MAX R. GLASS

ABSENT: JOHN LARAMORE
 LONDON WYATT

ALSO PRESENT: W. CLARKE WHITFIELD, JR., CITY ATTORNEY
 BROOKE BARKSDALE, LEGAL SECRETARY
 MADISON WHITTLE, COUNCILMAN
 MICHAEL ADKINS, DIRECTOR OF FINANCE
 LINWOOD WRIGHT, ECONOMIC DEVELOPMENT
 KELVIN PERRY, ECONOMIC DEVELOPMENT

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

MINUTES

COPIES OF THE MINUTES OF THE MARCH 13, 2018, MEETING WERE DISTRIBUTED TO THE MEMBERS WITH THEIR AGENDA PACKET. A MOTION WAS MADE BY MR. HAIRSTON TO APPROVE THE MINUTES. THE MOTION WAS SECONDED BY DR. GLASS AND CARRIED WITH MEMBERS PRESENT VOTING AS FOLLOWS:

MR. MORRIS	-AYE
MR. HAIRSTON	-AYE
MR. TURNER	-AYE
MR. REYNOLDS	-AYE
DR. GLASS	-AYE

UPDATE ON FINANCES

COPIES OF THE CURRENT FINANCIAL STATEMENTS WERE DISTRIBUTED TO THE MEMBERS. A MOTION WAS MADE BY MR. TURNER TO

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

MR. MORRIS	-AYE
MR. HAIRSTON	-AYE
MR. TURNER	-AYE
MR. REYNOLDS	-AYE
DR. GLASS	-AYE

RESOLUTIONS

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING A REDUCTION IN RENT FOR THE TENANTS OF 512 BRIDGE STREET EFFECTIVE MAY 1, 2018.

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

VOTE CARRIED AS:

MR. MORRIS	- AYE
MR. HAIRSTON	-AYE
MR. TURNER	-AYE
MR. REYNOLDS	-AYE
DR. GLASS	-AYE

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING THE INSTALLATION OF A DUMPSTER PAD AND FENCING FOR SURROUNDING PROPERTY ALONG THE 500 BLOCK OF LYNN AND CRAGHEAD STREET.

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

VOTE CARRIED AS:

MR. MORRIS	- AYE
MR. HAIRSTON	-AYE
MR. TURNER	-AYE
MR. REYNOLDS	-AYE
DR. GLASS	-AYE

MR. TURNER MOVED THE MEETING BE RECESSED AND THE BOARD IMMEDIATELY RECONVENE IN EXECUTIVE CLOSED MEETING FOR THE PURPOSE OF 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 AND 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 MADE BY MR. TURNER; 2ND BY MR. REYNOLDS HAIRSTON

VOTE CARRIED AS:

MR. MORRIS	- AYE
MR. HAIRSTON	-AYE

MR. TURNER	-AYE
MR. REYNOLDS	-AYE
DR. GLASS	-AYE

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

MR. MORRIS	- AYE
MR. HAIRSTON	-AYE
MR. TURNER	-AYE
MR. REYNOLDS	-AYE
DR. GLASS	-AYE

UPON RECONVENING, MR. TURNER 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 MADE BY MR. TURNER; 2ND BY MR. HAIRSTON

VOTE CARRIED AS:	MR. MORRIS	- AYE
	MR. HAIRSTON	-AYE
	MR. TURNER	-AYE
	MR. REYNOLDS	-AYE
	DR. GLASS	-AYE

MEETING ADJOURNED

MR. RUSSELL REYNOLDS
SECRETARY

T. NEAL MORRIS
CHAIRMAN

Executive Summary

Sale of Essel Propack Building and Waiver

Essel Propack has informed the Office of Economic Development that the company wishes to purchase the property at 187 Cane Creek Blvd. Under the terms of the existing lease, the company is required to purchase the property between June 30, 2018 and July 31, 2018, or be subject to a significant penalty for failure to make the purchase. In order to minimize interest cost and to meet the request of the parent corporation, staff is recommending that the IDA approve a resolution allowing the company to purchase the property at 187 Cane Creek Blvd. as soon after May 8, 2018 as closing can be arranged. This sale will be a cash sale without a lender involved. Bob Whitt is acting as the attorney to close the sale. The IDA will incur no cost as a result of this transaction.

PRESENTED: May 8, 2018

ADOPTED: May 8, 2018

RESOLUTION NO. 2018-____.____

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA APPROVING AND AUTHORIZING THE SALE OF PROPERTY LOCATED AT 187 CANE CREEK BOULEVARD ON OR AFTER MAY 8, 2018.

WHEREAS, Essel Propack America, LLC, (Company) entered into a lease with the Industrial Development Authority of Danville, Virginia (IDA) for property and a building located at 187 Cane Creek Boulevard (Premises) dated June 29, 2011; and

WHEREAS, under the terms of that lease, specifically section four (4), the Company is required to purchase the Premises between June 30, 2018 and July 31, 2018 otherwise Company must pay to the IDA One Million Dollars (\$1,000,000); and

WHEREAS, Company desires to purchase said property and building prior to June 30, 2018, the earliest date that the Company can purchase the property under the terms of the lease; and

WHEREAS, the Company has requested that the IDA waive the June 30, 2018 date and allow the Company to purchase the property between May 8, 2018 and July 31, 2018.

NOW THEREFORE, BE IT RESOLVED by the Industrial Development Authority of Danville, Virginia, that it hereby waives the June 30, 2018 date and substitutes said date with May 8, 2018; and

BE IT FURTHER RESOLVED, by the Industrial Development Authority of Danville, Virginia, that it hereby approves and authorizes the sale of 187 Cane Creek Boulevard, parcel ID number 77668 for the remaining balance owed on the loan from

Virginia Community Capital plus any additional interest and all closing costs, fees and taxes;
and

BE IT FURTHER RESOLVED, Company shall be allowed to purchase the property between May 8, 2018 and July 31, 2018 without paying to the IDA One Million Dollars (\$1,000,000).

BE IT FURTHER RESOLVED, should Company fail to purchase the Premises on or before July 31, 2018, Company shall pay to the IDA One Million Dollars (\$1,000,000) as stated in section 4.3 of that certain lease dated June 29, 201; and

BE IT FINALLY RESOLVED, the Chairman, or any other member in his absence be, and he is hereby, authorized to execute any documents to complete the said sale on behalf of the IDA.

APPROVED:

Chairman

ATTEST:

Secretary

Approved as to
Form and Legal Sufficiency:

City Attorney

Executive Summary

Lease to River District Association Suite 307 at 527 Bridge Street

Staff recommends approval of the attached lease to the River District Association who wishes to relocate to Suite 307 located at 527 Bridge Street with the following terms:

Lease Terms

Lease Amount: \$1,000.00

Term: 12 months; thereafter month to month

Utilities: RDA is responsible for paying its own monthly utilities

Taxes: Exempt subject to proof of non-profit status.

Security Deposit: \$1,000.00

Insurance: Proof of liability insurance

PRESENTED: May 8, 2018

ADOPTED: May 8, 2018

RESOLUTION NO. 2018-____.____

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 THE DOWNTOWN DANVILLE ASSOCIATION DBA THE RIVER DISTRICT ASSOCIATION.

NOW THEREFORE, BE IT RESOLVED by the Industrial Development Authority of Danville, Virginia, that it hereby approves and authorizes the Authority to enter into a Lease Agreement between the Industrial Development Authority of Danville, Virginia and the Downtown Danville Association **DBA** the River District Association, for Suite 307 located in 527 Bridge Street, substantially in the form attached hereto; and

BE IT FURTHER RESOLVED by the Industrial Development Authority of Danville, Virginia, that it hereby directs the Chairman, or in his absence any member, to execute the lease 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

LEASE AGREEMENT

This Lease Agreement ("Lease") is made and entered into as of this _____ day of _____ 2018, by and between the Industrial Development Authority of Danville, Virginia ("Landlord") and the Downtown Danville Association **DBA** the River District Association ("Tenant").

WITNESSETH

FOR and in consideration of the mutual promises and covenants of the parties to this Lease, the parties do covenant and agree as follows:

1. Definitions: The following words or phrases shall have the following meanings when used in this Lease, unless otherwise specifically provided:

"Agreement" shall mean this lease agreement including all terms, conditions, rights, and responsibilities between the above named Landlord and Tenant.

"Building" shall mean all of the building or other structure located on, or hereafter placed upon, 527 Bridge Street and bearing tax Parcel ID number 26821.

"Commencement date" shall mean _____, 2018.

"Premises" shall mean Suite 307 of the building (approximately 1,752 sq. ft.).

"Real Estate Taxes" shall mean all real estate taxes, assessments, or charges upon all or any portion of the Entire Property or any Buildings or improvements thereon.

2. Recitals: The parties to this Lease recite the following facts:

A. Landlord is the Industrial Development Authority of Danville, Virginia, a political subdivision of the Commonwealth of Virginia.

B. The Landlord desires to Lease the Property and Tenant desires to Lease from the Landlord the Premises for the primary purpose of operating the corporate offices of the Downtown Danville Association **DBA** the River District Association.

3. Lease of Property:

Landlord hereby Leases to Tenant, and Tenant hereby Leases from the Landlord the Property.

4. Term:

The term of this Lease ("Term") shall begin upon the commencement date of this Lease by the parties hereto, shall extend for twelve (12) months, and shall thereafter be leased on a month-to-month basis.

5. Rent:

A. Tenant shall pay as rent to Landlord, on the commencement date or sooner, the sum of One Thousand Dollars (\$1,000) per month. Rent is payable and due in advance on the first day of each calendar month during the Lease term to Landlord at the Danville Office of Economic Development 427 Patton Street Suite 203 Danville, Virginia 24543.

B. A security deposit equal to One Thousand Dollars (\$1,000) is required to be paid prior to the Commencement Date as defined in paragraph 1 above.

6. Maintenance and Repairs:

A. Tenant shall make, at Tenant's expense, all necessary improvements to the Premises including floors, walls, ceilings, plumbing, and lighting. Routine on-going repairs of interior areas not defined as the Premises and the exterior of the building including the roof, walls, foundation, gutters, downspouts, drainage systems, (signage excepted) shall be responsibility of the Landlord.

B. If Repairs relate to an insurable claim, the Party entitled to insurance recovery must pay for the repairs.

C. Tenant is responsible for their own trash disposal, janitorial, and any needed security services.

7. Use.

A. Tenant shall not use nor cause to be used all or a portion of the Premises for any of the following: 1) sexually oriented adult entertainment, 2) bookstore or magazine shop selling pornographic materials, 3) billiard parlor or pool hall, 4) any use which is not permitted by right under zoning classification applicable to the Premises, and 5) any other use which is illegal under any laws applicable to the Premises.

B. Tenant shall use Premises primarily for the operation of the corporate offices of the Downtown Danville Association **DBA** the River District Association. In the event that Tenant no longer uses Premises as the full-time corporate offices of the Downtown Danville Association **DBA** the River District Association this Lease shall end upon fifteen (15) days notice by Landlord.

8. Property Taxes.

Tenant shall be responsible for paying any property taxes both real and personal on the Premises.

9. Utilities.

Tenant shall pay all charges for water, sewer, gas, electricity, telephone and other utility services of leased property.

10. Insurance.

A. Tenant and Landlord shall, each at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the respective activities of each in the Building with the premiums thereon fully paid on or before due date, issued by and binding upon some insurance company approved by Landlord, such insurance to afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. Landlord shall be listed as an additional insured on Tenant's policy or policies of comprehensive general liability insurance, and Tenant shall provide Landlord with current Certificates of Insurance evidencing Tenant's compliance with this Paragraph. Tenant shall obtain the agreement of Tenant's insurers to notify Landlord that a policy is due to expire at least (10) days prior to such expiration. Landlord shall not be required to maintain insurance against thefts within the Leased Premises or the Building.

B. Tenant shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property, including removable trade fixtures, located in the Premises.

11. Signs.

Upon written permission of Landlord, Tenant may place on the Premises a sign which is permitted by applicable zoning ordinances and private restrictions. Tenant shall repair all damage to the Leased Premises resulting from the removal of signs installed by Tenant.

12. Entry.

Landlord shall have the right to enter upon the Property at reasonable hours to inspect the same, provided Landlord shall not thereby unreasonably interfere with business of the Tenant on the Property.

13. Building Rules.

Tenant will comply with the rules of the Building adopted and altered by Landlord from time to time and will cause all of its agents, employees, invitees and visitors to do so; all changes to such rules will be sent by Landlord to Tenant in writing.

14. Damage and Destruction.

If the Premises or any part thereof or any appurtenance thereto is so damaged by fire, casualty or structural defects that the same cannot be used for Tenant's purposes, then Tenant shall have the right within thirty (30) days following damage to elect by written notice to Landlord to terminate this Lease as of the date of such damage. In the event of minor damage to any part of the Premises, and if such damage does not render the Premises unusable for Tenant's purposes, Landlord shall promptly repair such damage at the cost of the Landlord. In making the repairs called for in this paragraph, Landlord shall not be liable for any delays resulting from strikes, governmental restrictions, inability to obtain necessary materials or labor or other matters, which are beyond the reasonable control of Landlord. Tenant shall be relieved from paying rent and other charges during any portion of the Lease term that the Premises are inoperable or unfit for occupancy, or use, in whole or in part, for Tenant's purposes. The

provisions of this paragraph extend not only to the matters aforesaid, but also to any occurrence which is beyond Tenant's reasonable control and which renders the Premises, or any appurtenance thereto, inoperable or unfit for occupancy or use, in whole or in part, for Tenant's purposes.

15. Default.

If default shall at any time be made by Tenant in any of the covenants or conditions to be kept, observed and performed by Tenant, and such default shall continue for fifteen (15) days after notice thereof to Tenant by Landlord without correction thereof then having been commenced and thereafter diligently prosecuted, Landlord may declare the term of this Lease ended and terminated by giving Tenant written notice of such intention, and if possession of the Leased Property is not surrendered, Landlord may reenter said Property. Landlord shall have, in addition to the remedy above provided, any other right or remedy available to Landlord on account of any Tenant default, either in law or equity. Landlord shall use reasonable efforts to mitigate its damages.

16. Quiet Possession.

Landlord covenants and warrants that upon performance by Tenant of its obligations hereunder, Landlord will keep and maintain Tenant in exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Leased Premises during the term of this Lease.

17. Condemnation.

If any legally constituted authority condemns the Building or such part thereof which shall make the Premises unsuitable for leasing, this Lease shall cease when the public authority issues the condemnation order and Landlord and Tenant shall account for rental as of that date. Such termination shall be without prejudice to the rights of either party to recover compensation from the condemning authority for any loss or damage caused by the condemnation. Neither party shall have any rights in or to any award made to the other by the condemning authority.

18. Hazardous Materials.

Tenant shall not use, store, or dispose of any hazardous substances upon the Premises, except use and storage of such substances if they are customarily used in lessee's business, and such use and storage complies with all environmental laws. "Hazardous substances" means any hazardous waste, substance or toxic materials regulated under any environmental laws or regulations applicable to the property.

19. Notice.

Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to Tenant:

River District Association (Insert Address & Phone number)

If to Landlord:

Industrial Development Authority of Danville, VA
C/O City Attorney's Office
P.O. Box 3300
Danville, VA 24541

With a copy to:

City Attorney's Office
P.O. Box 3300
Danville, VA 24541

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

20. Brokers.

Tenant represents that Tenant was not shown the Premises by any real estate broker or agent and that Tenant has not otherwise engaged in, any activity which could form the basis for a claim for real estate commission, brokerage fee, finder's fee or other similar charge, in connection with this Lease.

21. Waiver.

No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

22. Headings.

The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.

23. Successors.

The provisions of this Lease shall extend to and be binding upon Landlord and Tenant and their respective legal representatives, successors and assigns.

24. Consent.

Landlord shall not unreasonably withhold or delay its consent with respect to any matter for which Landlord's consent is required or desirable under this Lease.

25. Compliance with Law.

Tenant shall comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to Tenant's use of the Premises. Landlord shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Leased Premises.

26. Exculpation and Indemnity.

A. Exculpation of Landlord. Landlord shall not be liable to Tenant and Tenant waives all claims against Landlord for any damage, injury, deterioration, or loss to a person or property ("Damage") suffered by Tenant or Tenant's property from any cause except for any claim or Damage caused by any acts, omissions, neglect or fault of Landlord, its officers, agents, contractors, representatives or employees, and except for any claim or Damage caused by any default by Landlord under this Lease.

B. Indemnity. Tenant shall indemnify, defend and hold the Landlord, its officers, directors, members, parents, affiliates, employees and representatives harmless from and against all claims or Damages caused by the negligence, recklessness, willful misconduct, or fault of the Tenant, its officers, agents, contractors, representative and employees and against all costs, attorneys' fees, expenses and liabilities incurred as a result of or arising out of such claim or any action or proceeding brought thereon.

(i) Tenant shall further indemnify, defend and hold the Landlord harmless from all claims or Damages arising from any breach or default in the performance of any obligation to be performed by the Tenant under the terms of this Lease, and from and against all costs, attorneys' fees, expenses and liabilities incurred as a result of or arising out of such claim or any action or proceeding brought thereon.

(ii) If any action or proceeding shall be brought against the Landlord by reason of any claims covered by this indemnity, Tenant, upon notice from the Landlord shall defend the same at the Tenant's expense by counsel reasonably approved by the Landlord. The provisions of this Section shall survive the expiration or sooner termination of this Lease with respect to claims or liabilities occurring or arising prior to such expiration or termination.

27. Applicable Law and Entire Agreement.

A. This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

B. This Agreement and the performance thereof shall be governed by and enforced under the laws of the Commonwealth of Virginia, 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.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

Landlord:
Industrial Development Authority of Danville,
Virginia

By: _____
Name: T. Neal Morris
Its: Chairman

Tenant:
Downtown Danville Association **DBA**
River District Association

By: _____
Name:
Its:

Executive Summary

Loan Commitment with Virginia Community Capital in an amount not to exceed \$1,274,032

Staff recommends approval of the attached Loan Commitment with Virginia Community Capital in an amount not to exceed \$1,274,032. This is the 5-year loan renewal on the up fits made to 500 Cane Creek Parkway. The interest will be fixed at 4.5% per annum for 5 years. The loan will have a 5-year term with a 20 year amortization. Virginia Community Capital will take a first lien position on the deed of trust. This commitment must be accepted on or before May 11, 2018.

PRESENTED: May 8, 2018

ADOPTED: May 8, 2018

RESOLUTION NO. 2018-____.____

A RESOLUTION APPROVING AND AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA TO EXECUTE A TERM LOAN COMMITMENT WITH VIRGINIA COMMUNITY CAPITAL IN AN AMOUNT NOT TO EXCEED \$1,274,032 FOR THE OUTSTANDING BALANCE OF THE UP FITS TO 500 CANE CREEK PARKWAY.

NOW THEREFORE, BE IT RESOLVED by the Industrial Development Authority of Danville, Virginia that it hereby approves and authorizes the terms of the Term Loan Commitment with Virginia Community Capital in an amount not to exceed One Million Two Hundred Seventy-four Thousand Thirty-two Dollars (\$1,274,032) for the outstanding balance of the up fits to 500 Cane Creek Parkway; and

BE IT FURTHER 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, on behalf of the Industrial Development Authority of Danville, Virginia, the Term Loan Commitment with Virginia Community Capital in an amount not to exceed One Million Two Hundred Seventy-four Thousand Thirty-two Dollars (\$1,274,032); and

BE IT FINALLY RESOLVED that the Chairman, or in his absence any officer, be, and hereby is, authorized to execute all other documents necessary for the Term Loan Commitment and Loan as well as such other documents in a form and provided in such terms and conditions as agreed to by the City Attorney and Chairman.

APPROVED:

Chairman

ATTEST:

Secretary

Approved as to
Form and Legal Sufficiency:

City Attorney



April 13, 2018

IDA of Danville
427 Patton Street
Danville, VA 24543
Attn: T. Neal Morris

Re: IDA of Danville – Commitment Letter

Dear Neal:

We are pleased to advise you that Virginia Community Capital (the “Lender”) has approved your loan request for a term loan (the “Commitment”), collectively the “Loan,” subject to the following terms and conditions:

1. **Basic Terms**

- (a) **Borrower:** IDA of Danville
- (b) **Moral Obligation:** City of Danville
- (c) **Loan Amount:** up to \$1,274,032
- (d) **Use of Proceeds:** Refinance existing VCC loan
- (e) **Interest Rate:** Interest on the Loan will be fixed at 4.5% per annum for 5 years.
- (f) **Term & Amortization:** The Loan will have a 5 year term with a 20 year amortization.
- (g) **Packaging Fee:** .65% of the loan amount \$1,274,032
- (h) **Document Fee:** \$300
- (i) **Appraisal Review Fee:** \$100
- (j) **Collateral:**
 - i. Lender will take a 1st lien position deed of trust on commercial real estate at 500 Cane Creek Parkway, Ringgold, VA 24586

110 Peppers Ferry Road, N.W.
Christiansburg, VA 24073
540.260.3126

7814 Carousel Lane, Suite 100
Richmond, VA 23294
804.344.5484

207 Granby Street, Suite 201
Norfolk, VA 23510
757.962.1268



2. **Conditions of Loan:** As conditions precedent to the closing of the Loan, all conditions and requirements in this Commitment must be satisfied to Lender's satisfaction, as determined by Lender in its sole discretion. The Lender intends to use in house loan documents and will charge a \$300 fee (paid at closing) for internal preparation. Lender must have reviewed and found satisfactory, the following:
- (a) **Loan Documents:** Promissory Note with confession of judgment provisions, loan agreement, deed of trust, consents and all such other and further documents as Lender may require (collectively, the "Loan Documents"), duly executed acknowledged and/or sworn to, delivered, recorded and/or filed, upon the terms of this Commitment and containing such representations and warranties and affirmative, negative and other covenants, together with other additional terms and conditions, as Lender may require in its sole discretion.
 - (b) **Moral Obligation: City of Danville**
 - (c) **Collateral Assignment of Lease:** Collateral assignment of lease for the 500 Cane Creek Parkway, Ringgold, VA 24586 location.
 - (d) **CRE Appraisal:** Commercial Real Estate appraisal required on property at 500 Cane Creek Parkway, Ringgold, VA 24586 with results deemed sufficient by Lender.
 - (e) **Environmental Site Assessment:** Phase I ESA required, with results deemed sufficient by Lender.
 - (f) **Title Insurance:** The Borrower shall furnish the Bank a title insurance policy issued by **Bankers Title, LLC**. Said policy will insure the Bank in the amount of the loan, without exception for possible unfiled mechanic's and materialman's liens and accepting only such title exceptions acceptable to the Bank. The title insurance policy or binder must be submitted to and reviewed by the Bank prior to Loan closing. Bankers Title, LLC can be reached directly at 804.560.7655 or 800.830.1414.
 - (g) **Authority and Capacity:** Evidence of the existence, good standing, authority and capacity of Borrower and their respective constituents and representatives as Lender may require.

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Borrower's organizational documents shall be subject to review by Lender and must be acceptable to Lender in its sole discretion. A current business license will be required prior to funding.

- (h) **Insurance:** Borrower's effective, paid-up policies of flood, fire and all-risk replacement cost coverage (including Builder's Risk coverage) of all insurable Collateral and with loss proceeds payable to Lender with Lender listed as "Lender's Loss Payee" on business property insurance and "Certificate Holder" on all liability and worker's compensation insurance; and such other or additional insurance, and covering such risk, as Lender shall require in its sole discretion. All policies must be written by insurers, in amounts, with endorsements, and on terms and conditions satisfactory to Lender in its sole discretion.
- (i) **Miscellaneous:** Such other evidence, documents, business licenses, certificates, opinions and items requested by Lender that are customarily provided in loan transactions of this type or necessary in connection with any other requirement of this Commitment.
- (j) **No Adverse Change:** There is to be no adverse change in the Guarantor's or Borrower's financials as June 30, 2017.
- (k) **Date for Submission:** All submissions must be made and all conditions must be satisfied by Borrower at least seven (7) business days prior to Loan Closing.
- (l) **Additional Financial Information:** Borrower will provide audited financials annually. City of Danville will provide audited financials annually.

3. Covenants:

- Debt to Net Worth Ratio not to exceed 10:1 to be measured from audited financials.
- Current ratio greater than 1:1 to be measured from audited financials

4. **Costs:** Borrower shall pay on demand all out-of-pocket costs and expenses incurred by Lender or Borrower, in connection with the Loan (pre-and post-closing), including but not limited to, all costs associated with documenting, recording, closing; and all fees and expenses of Lender's outside legal counsel (if any) and the cost of any other reports deemed necessary by Lender, whether or not the Loan closes. Such costs and expenses incurred at or prior to the Loan Closing shall be due and payable prior to the closing of the Loan. The provisions of this paragraph shall survive the expiration or termination of this Commitment.

5. **Acceptance; Termination:** This Commitment shall terminate automatically without notice at 5:00 pm Eastern Standard Time on or before May 11, 2018 unless before that time Borrower has accepted it by

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delivering a signed original of this letter to the undersigned Lender with a **deposit of \$9,140** to cover part of the Packaging fee and costs of Appraisals and Environmental Site Assessment. **This deposit is non-refundable should the borrower withdraw its loan request after signing this letter.** If all the conditions of this Commitment have not been satisfied or if Lender and Borrower are unable to agree on and reduce to writing all of the Loan Documents in a manner satisfactory to Lender by the Closing Date, time being of the essence, or if there has been any misrepresentation or any material error in anything submitted to Lender regarding the Loan or pursuant to any other provision hereof, the Lender shall have the option to terminate this Commitment. Upon any such termination, the Lender shall have no obligation to extend any credit hereunder, the Lender shall be entitled to retain all fees and other sums paid by Borrower to the Lender in connection with this Commitment, and all obligations hereunder shall terminate.

6. **Expiration of Approval:** This loan approval shall terminate on July 10, 2018 should the loan not close by that date.

THE LOAN DOCUMENTS WILL REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.

Very Truly Yours,

VCC Bank

Name: Cindy Snider
Title: Loan Officer
Phone Number: 540-250-0055

The undersigned accept and agree to all of the terms and conditions of the foregoing Commitment.

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vacommunitycapital.org



For the Borrower:

IDA of Danville

By: _____

Name: T. Neal Morris

Title: IDA Board Chair

Date

For the Moral Obligator:

City of Danville

By: _____

Name: Ken Larking

Title: City Manager

Date

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