

Danville-Pittsylvania Regional Industrial Facility Authority

**CITY OF DANVILLE, VIRGINIA
COUNTY OF PITTSYLVANIA, VIRGINIA**

AGENDA

MONDAY, FEBRUARY 13, 2012

12:00 NOON

**DANVILLE REGIONAL AIRPORT
EASTERN CONFERENCE ROOM
424 AIRPORT DRIVE, DANVILLE, VIRGINIA**

COUNTY OF PITTSYLVANIA MEMBERS

**COY E. HARVILLE, CHAIRMAN
JAMES H. SNEAD
JESSIE L. BARKSDALE, ALTERNATE**

CITY OF DANVILLE MEMBERS

**SHERMAN M. SAUNDERS, VICE CHAIRMAN
T. DAVID LUTHER
FRED O. SHANKS, III, ALTERNATE**

STAFF

**JOSEPH C. KING, CITY MANAGER, DANVILLE
WILLIAM D. SLEEPER, PITTSYLVANIA COUNTY ADMINISTRATOR
CLEMENT & WHEATLEY, ATTORNEY FOR AUTHORITY
SUSAN M. DEMASI, AUTHORITY SECRETARY
BARBARA A. DAMERON, AUTHORITY TREASURER**

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1. MEETING CALLED TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT PERIOD

Members of the public who desire to comment on a specific agenda item will be heard during this period. The Chairman/Vice Chairman of the Authority may restrict the number of speakers. Each speaker shall be limited to a total of three minutes for comments. (Please note that the public comment period is not a question-and-answer session between the public and the Authority.)

4. APPROVAL OF MINUTES FOR THE JANUARY 9, 2012 MEETING

5. NEW BUSINESS

- A. Consideration of Resolution No. 2012-02-13-5A, approving a request of Barbara A. Dameron, CPA, Authority Treasurer, that the Authority approve allocating a percentage of the City of Danville Senior Accountant's salary, FICA, and benefits to the Authority; and such allocation would be a non-cash transaction that would be allocated through the due to/due from accounts maintained each year. [Resolution attached.]
- B. Consideration of Resolution No. 2012-02-13-5B, approving the rescheduling of the April, October, and November 2012 regular meetings of the Authority to avoid conflicting with various holidays. [Resolution attached.]
- C. Consideration of Resolution No. 2012-02-13-5C, accepting a grant, consistent with the application submitted pursuant to Resolution 2011-11-21-5B, from the Tobacco Indemnification and Community Revitalization Commission in the amount of \$6,208,153 for site improvement work on Lot 4 at the Authority's Berry Hill Mega Park, in Pittsylvania County, Virginia, and authorizing the Chairman or Vice Chairman of the Authority to execute and deliver, on behalf of the Authority, the Letter of Agreement between the Authority and the Commission for such grant funds, and any other necessary documents pertaining thereto. [Resolution attached.]
- D. Financial Report as of January 31, 2012 – Barbara A. Dameron, CPA, Authority Treasurer
- E. Process for Approval of Building Plans and for Certifying Compliance with Restrictive Covenants – Clement & Wheatley, Legal Counsel

6. CLOSED SESSION

- A. As permitted by Section 2.2-3711(A)(5) of the Code of Virginia, 1950, as amended, for discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community, specifically a prospective business or industry considering the Authority's Cane Creek Centre.

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- B. As permitted by Section 2.2-3711(A)(7) of the Code of Virginia, 1950, as amended, for consultation with legal counsel employed or retained by the Authority regarding specific legal matters requiring the provision of legal advice by such counsel, and in particular, the request of BDJN, LLC, a Virginia limited liability company, for the Authority to execute a Subordination Agreement and related certificate(s), affecting or pertaining to certain real property (Tax PINs 78471 and part of 77831), owned by BDJN, LLC, located in the City of Danville, Virginia, at the Authority's Cyber Park.
- C. Confirmation of Motion and Vote to Reconvene in Open Meeting.
- D. Motion to Certify Closed Meeting.

7. COMMUNICATIONS FROM:

Jessie L. Barksdale
Coy E. Harville
T. David Luther
Sherman M. Saunders
Fred O. Shanks, III
James H. Snead
Staff

8. ADJOURN

**AGENDA
ITEM NUMBER 4**

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The Regular Meeting of the Danville Pittsylvania Regional Industrial Facility Authority convened at 12:15 p.m. on the above date in the Danville Regional Airport, Conference Room, 424 Airport Drive, Danville, Virginia. Present were City of Danville Members Vice-Chairman Sherman M. Saunders, T. David Luther and alternate Fred O. Shanks. Pittsylvania County Members present were Chairman Coy E. Harville, James Snead and Alternate Jessie L. Barksdale.

City/County staff members attending were: City Manager Joe King, Pittsylvania County Administrator Dan Sleeper, Danville Finance Director/Authority Treasurer Barbara Dameron, Pittsylvania County Finance Director Kim Van der Hyde, Pittsylvania County Director of Economic Development Ken Bowman, City of Danville Director of Economic Development Jeremy Stratton, City of Danville Marketing and Research Manager Corrie Teague, City of Danville Senior Accountant Patricia Conner, Clement and Wheatley Attorney Michael Guanzon, and Secretary to the Authority Susan DeMasi.

Also present were Dewberry and Davis Project Manager Shawn Harden; and Susan Chapman and Norman Yoder with Brown, Edwards & Co.

Chairman Harville called the Meeting to order. Mr. Harville recognized Mr. James Snead from the Pittsylvania County Board of Supervisors who is back on the RIFA Board and welcomed Mr. Jessie Barksdale, also of the Pittsylvania County Board of Supervisors, the new alternate member for Pittsylvania County for the RIFA Board.

PUBLIC COMMENT PERIOD

Mr. Lynwood Lunsford appeared before the RIFA Board to speak regarding his request to be allowed to hunt on RIFA owned property at the Mega Park.

APPROVAL OF DECEMBER 12, 2011 MINUTES

Upon **Motion** by Mr. Snead and **second** by Mr. Luther, Minutes of the December 12, 2011 Meeting were approved, as presented. Draft copies had been distributed to Authority Members prior to the Meeting.

OLD BUSINESS

CONSIDERATION – RESOLUTION NO. 2012-01-09-5A – REVISING ARTICLE VI (“OFFICERS”) OF THE AMENDED AND RESTATED BY LAWS OF THE AUTHORITY

Mr. Saunders **moved** adoption of Resolution No. 2012-01-09-5A – (2011-12-12-5A Initial Discussion), revising Article VI (“Officers”) of the Amended and Restated Bylaws of the Authority adopted August 13, 2007, and last revised April 11, 2011 (the “Bylaws”), to provide that the Treasurer, in the absence of the Secretary, shall perform all duties of the Secretary, except for those certain other duties which the Chairman, under the Bylaws, delegates to a director, alternate director, officer or staff member in the Secretary’s absence.

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The Motion was **seconded** by Mr. Luther and carried by the following vote:

VOTE: 4-0
AYE: Harville, Snead, Luther and Saunders (4)
NAY: None (0).

NEW BUSINESS

6A. CONSIDERATION – REQUEST FROM LYNWOOD LUNSFORD TO HUNT A PORTION OF THAT CERTAIN PROPERTY LOCATED ON THE WEST SIDE OF OAK HILL ROAD IN THE AUTHORITY’S MEGA PARK SITE, LOCATED IN PITTSYLVANIA COUNTY, VIRGINIA

Mr. Harville noted that part of the request pertained to coyote hunting and referred this to County Administrator Dan Sleeper. Mr. Sleeper explained that the County participates in a program with the Federal government, with farmers and home owners that have problems with coyotes, and have been participating in that program for about 10 years.

Mr. Shanks questioned if there were any individuals that had permission to hunt on any of the property. Mr. Harville noted only the hunting clubs the Board leases to. There are no citizens that go in the park, either to hunt or hike. Michael Guanzon noted that the hunting leases have indemnification requirements and also insurance requirements – they have to provide certificates of insurance protecting and indemnifying the Authority for their activities on that leased property. Mr. Snead noted he had reluctance in letting one citizen hunt on the property and having to open up the property to other citizens.

Mr. Snead **moved** to **Deny** the request from Lynwood Lunsford to hunt a portion of that certain property located on the west side of Oak Hill Road in the Authority’s Mega Park site, located in Pittsylvania County, Virginia.

The **Motion to Deny** was seconded by Mr. Luther and carried by the following vote:

VOTE: 4-0
AYE: Harville, Snead, Luther and Saunders (4)
NAY: None (0).

6B. CONSIDERATION - RESOLUTION NO. 2012-01-09-6B APPROVING AN 11.5 MONTH LEASE TO MOUNTAIN VIEW FARMS

Mr. Harville noted that this is a transition from Patten Seeds, Mountain View Farms of Virginia, would like to take over this lease. Mr. Osborne from Patten Seeds and Roger Jefferson from Mountain View Farms were available to answer questions.

Mr. Snead **moved** adoption of Resolution No. 2012-01-09-6B approving an 11.5 month lease to Mountain View Farms of Virginia, L.C., a Virginia limited liability company, for that certain real property (GPIN 1356-75-8216) of the Authority, containing approximately 30

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acres and fronting on Stateline Bridge Road, in the Authority's Mega Park site, in Pittsylvania County, Virginia, for the purpose of planting and harvesting sod, soybeans, and/or other cover crops, but not tobacco, at a total rental fee of \$3,000.00.

The Motion was **seconded** by Mr. Luther.

Mr. Snead questioned the location of the property in the Mega Park. Mr. Luther asked whether Patten Seeds had shut down the whole company or just this one location. Mr. Osborne noted they only closed this one location.

The Motion was **carried** by the following vote:

VOTE: 4-0
AYE: Harville, Snead, Luther and Saunders (4)
NAY: None (0).

6C. CONSIDERATION - RESOLUTION NO. 2012-01-09-6C APPROVING AN AMENDMENT FOR ONE YEAR RENEWAL OF LEASE TO BROWNING & ASSOCIATES

Mr. Snead **moved** adoption of Resolution 2012-01-09-6C, approving an amendment for the one-year renewal of the lease to Browning & Associates, Ltd., a Virginia corporation, of the residence located at the Authority's Mega Park site, in Pittsylvania County, Virginia, commonly known as 4380 Berry Hill Road, Danville, Virginia (part of GPIN 1367-70-4519), at a total rental fee of \$6,000.00.

The motion was **seconded** by Mr. Saunders. After a brief discussion by the Board, the motion was **carried** by the following vote:

VOTE: 4-0
AYE: Harville, Snead, Luther and Saunders (4)
NAY: None (0).

6D. FINANCIAL AUDIT - BARBARA DAMERON, CPA, AUTHORITY TREASURER

Mr. Harville stated that he would like to take this time to thank the City for all the work they have done with respect to the audit, and to Barbara and Kim Van Der Hyde. The Board appreciates all the work that has been done.

Ms. Dameron introduced Susan Chapman and Norman Yoder with Brown, Edwards & Co., to give their report. Mr. Yoder also noted his appreciation of the work Barbara, Patricia and Kim did for this audit.

Mr. Yoder gave a summary of the audit and noted a few points:

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The most important thing is to have a clean opinion, which means the auditors think the numbers are materially correct.

In the Statement of Net Assets, Mr. Yoder noted that RIFA is an entity that is growing because of land acquisitions.

There were bond issuance costs that were incurred as of June 30 that related to the bonds that were just issued and those have been accrued onto this balance sheet even though the bonds had not been issued yet.

There is a shift from what is due from and due to the County and the City. Those due to/due from accounts are used to true up the activity that is done between those two entities each year.

There was a restatement of the 2010 net assets. This had to do with how the land is currently being held on the books and the way some of the costs were allocated to previous incentive grants.

In the management letter, the auditors have suggested that Barbara and her team take a look at the land values as they are presented in these financial statements. Right now the land is presented at its costs. For an organization like RIFA the property is not being held for use in the same way a business would acquire property and use it, it can almost be looked at like inventory. If there is a material decline in the value of the land, reduce that value on your financial statements. The auditors believe it is worthwhile for the team to spend some time thinking about whether or not there should be any write down on this property.

Mr. Harville stated that he read the audit and was concerned about the value of the property and asked if the auditors would recommend that the land be appraised again or periodically. Ms. Dameron noted she had a call out to Anne Graham who was used with the Cyber Park, to discuss appraisal.

Mr. Luther noted that there is an assumption that all land values are going down but in his opinion, when you are able to get together as many pieces of property to come up with this Mega Site, you are controlling a lot more land than one single parcel that somebody might sell nearby with a house on it. Mr. Luther stated that the land took on a greater value when all those property lines were erased and that needs to be taken into account, not just some recent sales of real property, where people have homes and live, you have to look at it as an industrial park. Also, the Authority may be giving the land away eventually, but it doesn't want to give away land that has been written down in value far below what was paid for it. The Authority wants people to understand that RIFA is giving them whatever the value of that land is to the Authority, what was paid for it, as part of their package; that is an incentive and the lower that value, it is less incentive.

Mr. Yoder replied that anytime you put together property that is significant in acreage, comparables can be very difficult and they have run into that before with other industrial parks.

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Mr. Saunders and Mr. Harville noted their agreement with Mr. Luther.

Authority Attorney Michael Guanzon stated that there is a wide range of how appraisals can be done, different methodology, the current use to maximum use of a property vs. current use, potential use, comparable sales. More accurate appraisals of the property will help economic development to market the property.

6E. FINANCIAL REPORT AS OF DECEMBER 31, 2011 – BARBARA A. DAMERON, CPA, AUTHORITY TREASURER

Barbara Dameron, Authority Treasurer gave the financial report as of December 31, 2011.

Ms. Dameron noted that this month there were disbursements of \$9,360, the majority of that in general expenses and the Authority received \$18,315 in rental income. A sheet has been created for the Mega Park Bond Funds and the City has been reimbursed.

Mr. Harville thanked Joe King and all the City Council members, Barbara Dameron and everyone that was able, during the lawsuit, to keep this Park moving forward.

Mr. Saunders **moved** to accept the Financial Report as given. The Motion was **seconded** by Mr. Luther and carried by the following vote:

VOTE: 4-0
AYE: Harville, Snead, Luther and Saunders (4)
NAY: None (0)

6F. REPORT ON PROGRESS OF MASTER PLAN FOR THE AUTHORITY'S MEGA PARK SITE – SHAWN HARDEN, PROJECT MANAGER, DEWBERRY & DAVIS

Mr. Harden reported that the draft Master Plan is now complete and they will present it to staff on the 18th of this month for review, and will present it to the Board at an upcoming meeting.

7A. AND B. CLOSED SESSION

At 1:30 p.m. Mr. Harville requested a Motion to go into Closed Meeting as permitted by Section 2.2-3711(A)(3) of the Code of Virginia, 1950, as amended, for discussion or consideration of the acquisition of certain real property in Pittsylvania County, Virginia, including various parcels of land adjacent to the Authority's Cane Creek site, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Authority; and

As permitted by Section 2.2.-3711(A)(7) of the Code of Virginia, 1950, as amended, for consultation with legal counsel employed or retained by the Authority regarding specific legal matters requiring the provision of legal advice by such counsel, and in particular the

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request of BDJN, LLC, a Virginia limited liability company, for the Authority to execute a Subordination Agreement, affecting certain real property (Tax PINs 78471 and part of 77831), owned by BDJN, LLC, located in the City of Danville, Virginia, at the Authority's Cyber Park; under the Subordination Agreement, the Authority and City of Danville, Virginia, would subordinate its respective interests under that certain Credit Line Deed of Trust dated February 7, 2011, and recorded in the Clerk's Office of the Circuit Court of Danville, Virginia, as Instrument No. 11-356, to Bank of America, N.A., a national banking association; and such Credit Line Deed of Trust secures the performance of Electronic Instrumentation and Technology, LLC, a Virginia limited liability company, under that certain Performance Agreement by and among the Authority, the City of Danville, Virginia, Electronic Instrumentation and Technology, LLC, and the County of Pittsylvania, Virginia.

Mr. Snead **made** a Motion to go into Closed Meeting. The Motion was **seconded** by Mr. Luther.

Upon unanimous vote at 1:30 p.m., the Authority returned to open meeting and Mr. Saunders **moved** adoption of the following Resolution:

WHEREAS, the Authority convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia, 1950, as amended, requires a Certification by the Authority that such Closed Meeting was conducted in conformity with Virginia Law;

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby certifies that, to the best of each Member's knowledge, (i) only public business matters lawfully exempted by the open requirements of Virginia Law were discussed in the Closed Meeting to which this Certification Resolution applies, and (ii) only such public business matters as were identified in the Motion convening the Closed Meeting were heard, discussed, or considered by the Authority.

The Motion was **seconded** by Mr. Snead and carried by the following vote:

VOTE: 4-0
AYE: Harville, Snead, Luther and Saunders (4)
NAY: None (0).

CONSIDERATION – APPROVAL RESOLUTION NO. 2012-01-09-7B

Mr. Luther **moved** that the Authority approve the Subordination Agreement between the Authority, BDJN, LLC, and Bank of American, N.A., in the form set forth in the agenda material, together with such amendments, deletions or additions thereto as may be approved by the Chairman and the Vice Chairman of the Authority, and authorize the Chairman and the Vice Chairman, either of whom may act independently of the other, to execute and

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deliver the Subordination Agreement on behalf of the Authority, such execution of the Subordination Agreement by the Chairman (or the Vice Chairman as the case may be) to conclusively establish his approval of any amendments, deletions or additions thereto.

The Motion was **seconded** by Mr. Snead and carried by the following vote:

VOTE: 4-0
AYE: Harville, Snead, Luther and Saunders (4)
NAY: None (0).

COMMUNICATIONS

Mr. Barksdale stated that it is his pleasure to be a part of the RIFA board as an alternate and knows it will facilitate a lot of learning, it is learning curve for him as one of the new Supervisors and looks forward to working with everyone.

Mr. Luther noted his congratulations, welcome aboard and Happy New Year to everyone else.

Mr. Saunders expressed his welcome to Mr. Barksdale and a welcome back to Mr. Snead and thanked Barbara and Kim with regard to the financial work.

Mr. Snead stated he was looking forward to working with RIFA again after being absent for a little while.

Mr. Harville noted his appreciation and was glad to see Mr. Snead back and Mr. Barksdale and looking forward in 2012 to getting some jobs to the area and moving forward.

MEETING ADJOURNED AT 1:34 P.M.

Chairman

Secretary to the Authority

**AGENDA
ITEM NUMBER 5A**

Resolution No. 2012-02-13-5A

A RESOLUTION APPROVING A REQUEST OF BARBARA A. DAMERON, CPA, AUTHORITY TREASURER, THAT THE AUTHORITY APPROVE ALLOCATING A PERCENTAGE OF THE CITY OF DANVILLE SENIOR ACCOUNTANT'S SALARY, FICA, AND BENEFITS TO THE AUTHORITY; AND SUCH ALLOCATION WOULD BE A NON-CASH TRANSACTION THAT WOULD BE ALLOCATED THROUGH THE DUE TO/DUE FROM ACCOUNTS MAINTAINED EACH YEAR.

BE IT RESOLVED, that

1. The Authority does hereby approve the request of Barbara A. Dameron, CPA, Authority Treasurer, dated January 24, 2012, that the Authority approve allocating a percentage of the City of Danville Senior Accountant's salary, FICA, and benefits to the Authority; and such allocation would be a non-cash transaction that would be allocated through the due to/due from accounts maintained each year. Such request is attached hereto and incorporated herein as **EXHIBIT A**.

2. This Resolution shall take effect immediately upon its adoption.

CERTIFICATE

I, the undersigned Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority, hereby certify that the foregoing is a true, correct and complete copy of a Resolution duly adopted by a majority of the Directors of the Danville-Pittsylvania Regional Industrial Facility Authority at a meeting duly called and held on February 13, 2012, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof.

WITNESS my hand as Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority this 13th day of February 2012.

(SEAL)

Susan M. DeMasi, Secretary
Danville-Pittsylvania Regional Industrial
Facility Authority

Resolution No. 2012-02-13-5A

EXHIBIT A
[Request attached]

Danville-Pittsylvania Regional Industrial Facility Authority

**427 Patton Street, Room 428
Danville, VA 24541
Telephone: 434-799-5185
Facsimile: 434-799-5041**

Date: January 24, 2012

To: Danville-Pittsylvania Regional Industrial Facility Authority (RIFA) Board of Directors

From: Barbara A. Dameron

Subject: Charging RIFA Accountant's Time to RIFA

With the structure of RIFA, various staff positions at the City and County are shared for the benefit of RIFA. Most of the staff used for RIFA have a corresponding position in both the City and the County, so the time spent on RIFA is essentially a "wash" and is therefore not charged to RIFA.

However, one position for which there is not a corresponding position is the RIFA accountant, whose salary and benefits are paid by the City. The City Senior Accountant spends considerable time recording and researching transactions, preparing for the year-end audit, preparing financials statements and Board reports, preparing grant reports and reimbursement requests, and other various RIFA accounting tasks. It is estimated that about 35% to 40% of the City Senior Accountant's time is allocated to RIFA tasks.

Therefore, staff is requesting the RIFA Board approve allocating a percentage of the City Senior Accountant's salary, FICA, and benefits to RIFA. The total charge would approximate between \$19,000 and \$22,000 once the accurate percentage of time is determined. This would be a non-cash transaction that would be allocated through the due to/due from accounts maintained each year.

**AGENDA
ITEM NUMBER 5B**

Resolution No. 2012-02-13-5B

A RESOLUTION APPROVING THE RESCHEDULING OF THE APRIL, OCTOBER AND NOVEMBER 2012 REGULAR MEETINGS OF THE AUTHORITY TO AVOID CONFLICTING WITH VARIOUS HOLIDAYS.

BE IT RESOLVED, that

1. The Authority does hereby approve the rescheduling of the April, October and November 2012 regular meetings of the Authority as follows:
 - a. The April 2012 regular meeting will be held on April ____, 2012.
 - b. The October 2012 regular meeting will be held on October ____, 2012.
 - c. The November 2012 regular meeting will be held on November ____, 2012.
2. This Resolution shall take effect immediately upon its adoption.

CERTIFICATE

I, the undersigned Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority, hereby certify that the foregoing is a true, correct and complete copy of a Resolution duly adopted by a majority of the Directors of the Danville-Pittsylvania Regional Industrial Facility Authority at a meeting duly called and held on February 13, 2012, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof.

WITNESS my hand as Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority this 13th day of February 2012.

(SEAL)

Susan M. DeMasi, Secretary
Danville-Pittsylvania Regional Industrial
Facility Authority

**AGENDA
ITEM NUMBER 5C**

Resolution No. 2012-02-13-5C

A RESOLUTION ACCEPTING A GRANT, CONSISTENT WITH THE APPLICATION SUBMITTED PURSUANT TO RESOLUTION 2011-11-21-5B, FROM THE TOBACCO INDEMNIFICATION AND COMMUNITY REVITALIZATION COMMISSION IN THE AMOUNT OF \$6,208,153 FOR SITE IMPROVEMENT WORK ON LOT 4 AT THE AUTHORITY'S BERRY HILL MEGA PARK, IN PITTSYLVANIA COUNTY, VIRGINIA, AND AUTHORIZING THE CHAIRMAN OR VICE CHAIRMAN OF THE AUTHORITY TO EXECUTE AND DELIVER, ON BEHALF OF THE AUTHORITY, THE LETTER OF AGREEMENT BETWEEN THE AUTHORITY AND THE COMMISSION FOR SUCH GRANT FUNDS, AND ANY OTHER NECESSARY DOCUMENTS PERTAINING THERETO.

WHEREAS, the Danville-Pittsylvania Regional Industrial Facility Authority (the "**Authority**") is a political subdivision of the Commonwealth of Virginia duly created pursuant to the Virginia Regional Industrial Facilities Act, as amended; and

WHEREAS, the County of Pittsylvania, Virginia (the "**County**"), and the City of Danville, Virginia (the "**City**"), have been impacted by the decline of the tobacco industry causing a negative impact on economic development and growth throughout the region; and

WHEREAS, the Tobacco Indemnification and Community Revitalization Commission (the "**Commission**") has developed an economic development program to help tobacco-reliant localities to change and revitalize their economy, which includes grants to assist the County and the City in transforming their economies to replace the decline in the tobacco agro-business community; and

WHEREAS, consistent with the Authority's application submitted pursuant to resolution 2011-11-21-5B, the Commission has awarded the Authority a grant, dated January 10, 2012, in the amount of \$6,208,153 to complete certain site improvement work on Lot 4 at the Authority's Berry Hill Mega Park project in the County (the "**Grant**"), in connection with a local match of the County, the City, and/or the Authority in the amount of \$1,681,000 (the "**Local Match**"), up to \$200,000 of which is the Authority's contribution; and

WHEREAS, the terms of the Grant are set forth in the that certain Letter of Agreement between the Authority and the Commission, in the form attached hereto and incorporated herein as **EXHIBIT A** (the "**Letter Agreement**").

WHEREAS, the Authority has determined that it is in the best interests of the Authority and of the citizens of the County and the City for the Authority to accept the Grant from the Commission, in connection with the Local Match, and execute and deliver the Letter Agreement.

Resolution No. 2012-02-13-5C

NOW, THEREFORE, BE IT RESOLVED, that

1. The Authority does hereby accept the Grant, in connection with the Local Match, and does hereby approve the Letter Agreement, together with such amendments, deletions or additions thereto, consistent with this Resolution, as may be approved by the Chairman or Vice Chairman of the Authority, either of whom may act, and hereby authorizes the Chairman or Vice Chairman of the Authority, either of whom may act, to execute and deliver, on behalf of the Authority, the Letter Agreement, including all necessary documents pertaining thereto, such execution of the Letter Agreement, and any necessary documents pertaining thereto, by the Chairman or Vice Chairman of the Authority, either of whom may act, to conclusively establish approval of any amendments, deletions or additions thereto.

2. Without limiting the provisions of paragraph 1 above, the Authority hereby authorizes the disbursement of the Local Match in connection with the Grant.

3. The Authority hereby authorizes and directs staff and other agents and representatives working on behalf of the Authority to take such actions and to do all such things as are contemplated by the Letter Agreement, or as they in their discretion deem necessary or appropriate in order to carry out the intent and purposes of the Grant or these resolutions.

4. The Authority hereby approves, ratifies and confirms any and all actions previously taken by the Authority, the Pittsylvania County Administrator and the Danville City Manager, its other agents and representatives, in respect of the Grant and the matters contemplated therein.

5. This Resolution shall take effect immediately upon its adoption.

Resolution No. 2012-02-13-5C

CERTIFICATE

I, the undersigned Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority, hereby certify that the foregoing is a true, correct and complete copy of a Resolution duly adopted by a majority of the Directors of the Danville-Pittsylvania Regional Industrial Facility Authority at a meeting duly called and held on February 13, 2012, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof.

WITNESS my hand as Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority this 13th day of February 2012.

Susan M. DeMasi, Secretary
Danville-Pittsylvania Regional Industrial
Facility Authority

(SEAL)

Resolution No. 2012-02-13-5C

EXHIBIT A
[Letter Agreement attached]

LETTER OF AGREEMENT - GRANT FUNDS

The Tobacco Indemnification and Community Revitalization Commission ("Commission") has awarded a grant to Danville-Pittsylvania Regional Industrial Facility Authority ("Grantee") in the amount of \$6,208,153 (the "Grant") based on the information provided in the application (the "Application") approved January 10, 2012 (the "Award Date"), which by this reference is incorporated into and made a part of this Letter of Agreement – Grant Funds (this "Agreement"), to complete the project entitled Berry Hill Mega Park - Site Development - Lot 4 (the "Project") described in Exhibit A hereto.

WITNESSETH:

WHEREAS the Commission has as one of its purposes to stimulate the economic growth and development of tobacco-dependent communities in the Southside and Southwest regions of the Commonwealth, and can award grants to fund projects that the Commission determines to be consistent with and in furtherance of its purposes, and

WHEREAS the Project has been determined by the Commission to be for the benefit of a tobacco-dependent community in the Commonwealth, and consistent with and in furtherance of the Commission's purposes, and

WHEREAS the Commission and the Grantee desire to set forth their understanding and agreement as to the use of the Grant and the obligations of the Grantee regarding the use of the Grant,

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby represent, warrant, covenant and agree as follows:

1. **Definitions.** The following capitalized terms used in this Agreement have the meanings set forth below:

"**Authorized Expenditures**" means the expenditures to be paid on behalf of, or reimbursed to, the Grantee in connection with the Grant as set forth in the Project Budget.

"**Capital Expenditure**" means any cost of a type that is properly chargeable to capital account (or would be so chargeable with (or but for) a proper election or the application of the definition of "placed in service" under Treas. Regs. §1.150-2(c)) under general federal income tax principles, determined at the time the expenditure is paid.

"**Commission-Related Party**" means a Person that is a Related Party to the Commission, the Issuer or the Commonwealth.

"**Commonwealth**" means the Commonwealth of Virginia.

"**Controlled Group**" means a group of entities controlled directly or indirectly by the same entity or group of entities within the meaning of this definition.

(i) The determination of direct control is made on the basis of all the relevant facts and circumstances. One entity or group of entities (the controlling entity) generally controls another entity or group of entities (the controlled entity) for purposes of this definition if the controlling entity possesses either of the following rights or powers and the rights or powers are discretionary and non-ministerial—

(A) The right or power both to approve and to remove without cause a controlling portion of the governing body of the controlled entity; or

(B) The right or power to require the use of funds or assets of the controlled entity for any purpose of the controlling entity.

(ii) If a controlling entity controls a controlled entity under the test set forth in paragraph (i) of this definition, then the controlling entity also controls all entities controlled, directly or indirectly, by the controlled entity or entities.

(iii) An entity is not a controlled entity under paragraph (i) of this definition if the entity possesses substantial taxing, eminent domain, and police powers. For example, a city possessing substantial amounts of each of these sovereign powers is not a controlled entity of the state.

"Executive Director" means the Executive Director of the Commission.

"501(c)(3) Organization" means any Person described in Section 501(c)(3) of the Tax Code and exempt from tax under Section 501(a) of the Tax Code.

"Governmental Person" means a state or local governmental unit as defined in Treas. Regs. § 1.103-1 or any instrumentality thereof. The federal government and its agencies and instrumentalities are not Governmental Persons.

"Issuer" means the Tobacco Settlement Financing Corporation, a public body corporate and an independent instrumentality of the Commonwealth.

"Loan" means any transaction that is generally characterized as a loan for federal income tax purposes. A Loan may arise from the direct lending of money or may arise from transactions in which indirect benefits that are the economic equivalent of a loan are conveyed within the meaning of Treas. Regs. § 1.141-5. Certain leases, management contracts and other contractual arrangements and certain prepayments for property or services may constitute Loans under Treas. Regs. § 1.141-5.

"Nonexempt Person" means a Person that is neither a 501(c)(3) Organization nor a Governmental Person.

"Person" means any natural person, firm, joint venture, association, partnership, business trust, corporation, limited liability company, corporation or partnership, or any other entity (including a governmental entity).

"Project Budget" means the budget for the Project set forth in Exhibit B hereto.

"Related Party" means, in reference to a Governmental Person or a 501(c)(3) Organization, any Person that is a member of the same Controlled Group and, in reference to any Person that is not Governmental Person or a 501(c)(3) Organization, a Related Person.

"**Related Person**" shall have the meaning set forth in Section 144(a)(3) of the Tax Code. For purposes of Section 144(a)(3) of the Tax Code, a Person is a Related Person to another Person if--

(A) the relationship between such Persons would result in a disallowance of losses under Section 267 or 707(b) of the Tax Code, or

(B) such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Tax Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein).

"**Tax Code**" means the Internal Revenue Code of 1986, as amended, and the applicable provisions of the regulations of the U.S. Department of Treasury promulgated thereunder.

"**Tobacco Bonds**" means the Tobacco Settlement Asset-Backed Bonds, Series 2005, which were issued by the Issuer on May 16, 2005, and have a stated final maturity date of June 1, 2037, and the Tobacco Settlement Asset-Backed Bonds, Series 2007 B, C, and D which were issued by the issuer on May 3, 2007, and have a stated final maturity date of June 1, 2047.

"**Working Capital Expenditure**" means any cost that is not a Capital Expenditure. Generally, current operating expenses are Working Capital Expenditures.

2. Source of Grant Funds; Reliance. The Grantee represents that it understands that the Grant funds are derived from the proceeds of the Tobacco Bonds, the interest on which must remain excludible from gross income for federal income tax purposes (that is, "tax-exempt") pursuant to Virginia law and contractual covenants made by the Commission, the Issuer and the Commonwealth for the benefit of the owners of the Tobacco Bonds. The Grantee further represents that (i) the undersigned official of the Grantee has been informed of the purpose and scope of Sections 103 and 141-150 of the Tax Code as they relate to the Tobacco Bonds and the Grant and (ii) the representations and warranties contained in this Section and throughout this Agreement can be relied on by the Commission, the Issuer and bond counsel for the Commission and Issuer in executing certain documents and rendering certain opinions in connection with the Tobacco Bonds.

3. Nature of Grantee. The Grantee represents that it is neither a Commission-Related Party nor an agent of the Issuer, the Commission or the Commonwealth. A true, correct and complete copy of the Grantee's charter, articles of incorporation or similar governing instrument is attached as Exhibit C hereto and is in full force and effect on the date hereof. If the Grantee is a 501(c)(3) Organization, a copy of its IRS determination letter will also be attached as part of Exhibit C hereto. The Grantee will not make any change to its governing documents or structure, funding or operations during the term of the Tobacco Bonds that would or may cause the Grantee to become a Commission-Related Party or an agent of the Issuer, the Commission or the Commonwealth.

4. Project and Project Budget; Nature of Authorized Expenditures. (a) No portion of the Grant shall be used by the Grantee or the Commission for any purpose whatsoever other than to pay or to reimburse Authorized Expenditures with respect to the Project. No material changes shall be made in the scope of the Project or to the Project Budget. If the Grant exceeds the amount necessary to complete the Project, the excess shall not be provided to the Grantee but shall remain with the Commission.

(b) The Grantee represents, warrants and covenants as follows:

(i) All Authorized Expenditures will be Capital Expenditures. No Authorized Expenditure will be a Working Capital Expenditure.

(ii) Other than as described in Sections 12 and 14 below, the Grant does not impose on the Grantee any obligation or condition to directly or indirectly repay any amount (in cash, property or services or otherwise) to the Commission, the Issuer, the Commonwealth or any Commission-Related Party.

(iii) No Authorized Expenditure will represent, nor will the Grant involve, the use by the Grantee of any portion of the Grant funds, directly or indirectly, (i) to make or finance a grant or a Loan to a Commission-Related Party or (ii) to refund, redeem or pay debt service on the debt obligations (including without limitation any tax-exempt bonds) of the Grantee or any other Person.

(iv) The average reasonably expected economic life of the assets to be financed by the Grant is set forth in Exhibit D hereto.

5. Payment of Grant Funds. The Grant will, subject to the terms of this Agreement, be disbursed on a reimbursement basis upon submission of a signed payment request form and adequate supporting documentation in the form attached hereto. Expenses incurred prior to the Award Date are not eligible for reimbursement. Prior to any disbursement, the Commission shall have on record documentation (resolution or minutes of Grantee appointing designee) from the Grantee designating the officers, employees or agents authorized to make a disbursement request. Reimbursement requests shall be submitted not more frequently than on a quarterly basis. Appropriate supporting documentation shall be attached to all reimbursement requests and may include, but is not limited to, invoices from goods purchased or services performed. The Commission may in its sole discretion refuse to make disbursement if the documentation is not adequate or if it appears not to be within the Project Budget or otherwise contrary to or in violation of the provisions hereof. The Commission in its sole discretion may refuse to disburse any funds to the Grantee if the Grantee has previously received a grant award from the Commission and a final grant report for the previous amount received has not been submitted.

By written request, the Grantee may request an advance of up to 25 percent of the total Grant if sufficient funds are not available to begin the Project. Approval of the request shall be in the sole discretion of the Commission and shall be available no earlier than ninety days prior to the start of the Project. If the advance request is accepted, then the Grantee may be paid the balance of the Grant on a quarterly basis from adequate supporting documentation submitted for actual expenditures in the previous quarter. Additional requests for advances may be made based on projections of the next quarter's expenses and it shall continue to be within the discretion of the Commission to consider such advances.

6. Quality of Work. The Commission, its employees and agents shall have the right to inspect the Project at reasonable times from time to time. Upon a determination that quality of the work done and the progress toward completion of the Project is unsatisfactory, the Commission may take whatever action is necessary, including but not limited to, taking the actions as set forth in Section 12 of this Agreement. The Project may be monitored by on-site visits by representatives of the Commission or in any other manner deemed appropriate by the Executive Director.

7. Parties' Relationship. In connection with the award or the administration of this Grant, the Commission does not and shall not assume any liability for any financial or other obligations of the Grantee made to third parties, whether or not related to the Project. The Grantee shall provide written notice to all vendors, contractors and any other party retained to work on the Project that the Commission and the Commonwealth shall not be liable for the Project or any payment failure or other obligation related thereto. Said written notice shall provide that by accepting work on the Project, all such vendors,

contractors and other parties release and relinquish the Commission and the Commonwealth from any claim which might otherwise be asserted, and that each party accepting such work thereby indemnifies and holds the Commission, its members, employees and agents, harmless against any and all such obligations; and further, that if any action is brought against the Commission, its members, employees or agents, the party accepting such work shall be liable for all legal expenses and other costs related to such action. The Grantee is and will be acting as an independent contractor in the performance of this work, and it agrees to be responsible, where found liable and to the extent covered by insurance or specified by statute, for the payment of those claims for loss, personal injury, death, property damage, or otherwise arising out of any act or omission of its employees or agents in connection with the performance of the Project. Nothing contained herein shall be deemed an express or implied waiver of the sovereign immunity of the Commonwealth.

8. Recordkeeping; Audit. The Grantee shall maintain proper books of record and account in which accurate and timely entries shall be made in accordance with generally accepted accounting principles, consistently applied, of all their business and affairs for any period in which the Grantee expects to be a recipient of Grant funds. Such books of record and account shall reflect all activity of the moneys received from the Commission for the Project, itemized by category of expenses in the same manner as in the Project Budget. The Grantee shall retain all invoices, bills, receipts, cancelled checks, and similar documentation to substantiate expenditures of Grant funds. All books of record and account and all records of receipts and expenditures of Grant funds as well as copies of the reports submitted to the Commission and supporting documentation shall be retained for at least four years after the completion of the Project for which the Grant funds were used. The Commission, its employees and its agents shall have the right to make inspections and copies of the books and records of the Grantee and the Fund at any time or from time to time, unless otherwise prohibited by law.

9. Annual Reports. The Grantee shall submit to the Commission annual financial and narrative reports reflecting activity in the Fund and progress made towards completion of the Project. Annual financial reports shall be presented on the Commission's Grant Reporting Form. The Grantee's most recent audited financial statements shall be submitted with the annual financial report. Annual narrative reports shall indicate the progress made toward achieving the goals of the Grant and shall be submitted along with the financial information on the Commission's Grant Reporting Form. Annual reports shall be due one year from the date of this Agreement and annually thereafter until the Project is complete. The Commission reserves the right to request additional information to supplement the information provided in the Commission's Grant Reporting Form.

10. Final Report. The Grantee shall provide a final financial and narrative report to the Commission within thirty (30) days of completion of the Project. The report shall contain the type of information contained in the Annual Reports, a narrative as to the success of the Project and a description of the long-term expectations for the Project. The Commission may withhold final disbursement of up to 10% of the total Grant awarded until receipt of a final report that is in all respects satisfactory to the Commission. The Commission may, at its sole discretion, require additional reporting on the long-term achievements of the Project.

11. Interim Reports. In addition to the Annual Report and Final Report required by paragraphs 9 and 10, the Commission may request that additional or interim information be submitted. The Grantee, its employees and agents shall confer with the Commission, its employees and agents regarding such information upon request.

12. Misuse of Award: Right of Commission. If the Commission determines that any part of a Grant has been used for a purpose other than to pay or reimburse Authorized Expenditures with respect to the Project, or that the Grantee has failed to comply with any material term or condition of this

Agreement, the Commission may withhold any further payments to the Grantee and, in its sole discretion, may: (i) rescind the Grant by written notice to the Grantee, in which event the Grantee shall be obligated to return to the Commission, within five days following receipt of such notice, an amount equal to all Grant payments received pursuant to this Agreement by the Grantee, plus interest from the date of receipt at the prime rate printed in the Wall Street Journal on the date of the notice; (ii) require the Grantee to take action as the Commission may direct in order to recover any improperly used Grant funds, and to comply with any procedures that the Commission may direct in order to prevent further improper use; and/or (iii) take any other action as necessary to preserve the integrity of the Commission funds and to preserve them for appropriate uses. The Commission may take such judicial action as is necessary to collect any amounts owed pursuant to this Section or as otherwise provided in this Agreement. The Grantee shall on demand pay the Commission attorneys' fees and actual costs incurred in the collection of funds or for the enforcement of any obligation of the Grantee set forth in this Agreement.

13. Indemnification. The Grantee shall at all times protect, indemnify and hold the Commission, the Issuer, the Commonwealth and the owners of the Tobacco Bonds, and their respective members, directors, officers, employees, attorneys and agents (the "Indemnitees"), harmless against any and all liability, losses, damages, costs, expenses, penalties, taxes, causes of action, suits, claims, demands and judgments of any nature arising from or in connection with any misrepresentation, breach of warranty, noncompliance or default by or on behalf of the Grantee under this Agreement, including, without limitation, all claims or liability (including all claims of and liability to the Internal Revenue Service) resulting from, arising out of or in connection with the loss of the excludability from gross income of the interest on all or any portion of the Tobacco Bonds that may be occasioned by any cause whatsoever pertaining to such misrepresentation, breach, noncompliance or default, such indemnification to include the reasonable costs and expenses of defending itself or investigating any claim of liability and other reasonable expenses and attorneys' fees incurred by any of the Indemnitees in connection therewith. The obligations of the Grantee under this Section 13 shall survive the termination of this Agreement.

14. Clawback. All assets acquired or improved as part of the Project shall be held in trust by the Grantee for the benefit of the Commission. During the estimated useful life of the Project, the Commission retains an undivided equitable reversionary interest in such assets. Such assets shall not be leased, sold, disposed of, used to secure a mortgage or deed of trust, or otherwise be used as collateral, or be encumbered without the prior written approval of the Commission. In the event that any such asset is disposed of without such approval, the Commission may assert its interest in the asset to recover the Commission's share of the value of the asset, or recover the same from the Grantee, or both.

15. Future Funding. The Grant provided pursuant to this Agreement shall not be deemed to be an actual or implied promise to fund the Project except as provided for herein. No representation by the Commission, its employees, its agents or other representatives shall be binding unless set forth in writing and signed by the Executive Director upon approval by the Commission. In addition to the other remedies provided by law or in this Agreement, if the Grantee fails to comply with the terms of this Agreement, the Grantee shall not be entitled to additional funding for the Project.

16. Governing Law; Jurisdiction; Venue. This Agreement shall be governed by the applicable laws of the Commonwealth. This Agreement expresses the entire understanding and all agreements between the Commission and the Grantee and may not be modified except in writing signed by the Commission and the Grantee. The venue of any judicial action shall be in the Circuit Court of the City of Richmond.

17. Limitation of Commission's Liability. Nothing herein shall be deemed to be a covenant, agreement or obligation of a present or future member of the Commission or of an employee or

agent of the Commission. No member, employee or agent of the Commission shall incur any personal liability with respect to any action taken by him or her pursuant to this Agreement.

18. **Severability.** If any provision of this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof.

19. **Public Documents.** All reports, documents, financial data and other information provided to the Commission shall be public record.

20. **Conditional Funding.** In the event that the Grant awarded is contingent upon the happening of an event or events described herein that have not been satisfied as of the date of this Agreement, the Commission may withdraw the Grant award if such events have not been substantiated with appropriate documentation satisfactory to the Commission within one year of the date of this Agreement.

21. **Expiration.** Upon the third anniversary date hereof, all undisbursed Grant funds shall be automatically rescinded, unless an extension is granted in writing by the Commission.

SEEN AND AGREED:

Danville-Pittsylvania Regional Industrial Facility Authority

Signature of Grantee's Chief Executive: _____

Printed Name of Grantee's Chief Executive: _____

Title: _____

Date: _____

Grantee Information:

Address _____

Phone # _____ e-mail _____ Federal ID _____

EXHIBIT A

DESCRIPTION OF PROJECT

[This Exhibit should include a description of any planned disposition of the assets funded by the Grant]

The Danville-Pittsylvania Regional Industrial Facility Authority requests this grant for site development: grading, clearing, demolition, erosion control, stormwater management, seeding, and wetland remediation. All work to be performed on building pad in Berry Hill Mega Park.

Danville-Pittsylvania Regional Industrial Facility Authority Matching Funds

Request ID: 2491

Transfer Payments							
Total Costs:	\$6,208,153.00				\$1,681,000.00		\$7,889,153.00

EXHIBIT C

GOVERNING DOCUMENT OF GRANTEE

[Attach charter, articles of incorporation, partnership agreement or similar document]

[Also attach IRS determination letter if a 501(c)(3) Organization]

**DETERMINATION OF AVERAGE REASONABLY EXPECTED
ECONOMIC LIVES OF PROJECT ASSETS**

The Tax Code limits the length of average maturity for certain tax-exempt bonds, such as the Tobacco Bonds, to no more than 120% of the average reasonably expected economic life of the assets being financed with the proceeds of such bonds. In this Exhibit, the Grantee will determine the average reasonably expected economic life of the assets being financed by the Grant.

There are two safe harbors in determining "economic life": the ADR midpoint life under IRS Revenue Procedures 83-85 and 87-56 and the guideline life under IRS Revenue Procedure (in the case of structures). For the purposes hereof, the reasonably expected economic life of an asset is to be determined as of the date the asset is expected to be placed in service. You may wish to consult your accountant in completing this Exhibit. Commission staff can provide copies of the above-referenced Revenue Procedures.

Please complete the attached Schedule as follows:

Step 1. Please list each of the assets comprising the Project to be financed or refinanced by the Grant funds by describing them in Column I. At the minimum, the assets should be broken down as "Land," "Land Improvements," "Building," and "Equipment." In Column II, indicate whether each asset will be acquired, constructed, installed, renovated, etc.

Step 2. In Column III, set forth the corresponding total cost of each asset to be paid with Grant funds. Any amounts shown on the Project Budget as "Contingency" should be assigned to the shortest-lived asset.

Step 3. In Column IV, set forth the date each asset is expected to be placed in service. An asset is first placed in service when it is first placed in a condition or state of readiness and availability for a specifically assigned function.

Step 4. In Column V, set forth in years the ADR midpoint life or the guideline life of each asset listed in Column I, in accordance with the following:

Land. If any portion of the Grant funds will be used to finance land, Commission staff should be consulted to determine the economic life to be assigned. In most cases, Commission staff will direct you to assign the land an economic life of 0 and to exclude the land from the economic life calculation.

If land improved with one or more existing buildings will be acquired, please allocate the purchase price between the land and buildings and furnish the Commission with a copy of a recent appraisal of the relative value of the land and buildings to support your allocation.

Buildings. A guideline life must be determined under Revenue Procedure 62-21 for any building to be financed with the Grant. Forty years is the guideline life for most buildings. Based on the nature of the particular building, your accountant or Commission staff will assist you in determining whether another guideline life is more appropriate. Each building includes the structural shell of the building and all integral parts thereof, equipment which services normal

heating, plumbing, air conditioning, fire prevention and power requirements, and equipment such as elevators and escalators.

Equipment. Please select a ADR midpoint life for each item of equipment to be financed. The tables of asset guideline classes, asset guideline periods and asset depreciation ranges included in Revenue Procedures 83-35 and 87-56 is used for reference.

To use the table, you should first determine the asset guideline class in which each item of equipment falls. General business assets fall into classes 00.11 through 00.4 to the extent that a separate class is provided for them. Other assets, to the extent that a separate class is provided, fit into one or more of classes 01.1 through 80.0. Subsidiary assets (jigs, dies, molds, patterns, etc.) are in the same class as are the other major assets in an industry activity unless the subsidiary assets are classified separately for that industry. Each item of equipment should be classified according to the activity in which it is primarily used. If the equipment is not described in any asset guideline class, its estimated economic life must be determined on a case by case basis.

Working Capital. Working Capital Expenditures are ineligible for Grant funding.

Step 5. In Column VI, adjust the ADR midpoint or guideline life for each asset by adding the amount of time (in years) between May 16, 2005 (the closing date of the Tobacco Bonds) and the in-service date specified in Column IV. For example, if a building with a guideline life of 40 years will be placed in service one year and six months after May 16, 2005, the adjusted economic life for such building in Column VI should be 41.5

Step 6. In Column VII, show with respect to each asset the product of the respective entry in Column III multiplied by the respective entry in Column VI.

Step 7. Total all of entries in Column III and Column VII.

Step 8. Divide the Column VII Total by the Column III Total. The quotient is the average reasonably expected economic life of the assets to be financed with Grant funds as part of the Project.

EXHIBIT D

INFORMATION SCHEDULE
 REASONABLY EXPECTED ECONOMIC LIVES
OF PROJECT FACILITIES

	COLUMN I	COLUMN II	COLUMN III	COLUMN IV	COLUMN V	COLUMN VI	COLUMN VII
	DESCRIPTION OF ASSETS INCLUDED IN THE PROJECT	ACQUISITION, CONSTRUCTION, INSTALLATION, RENOVATION, ETC.	TOTAL COST TO BE FINANCED BY GRANT	IN SERVICE DATE	GUIDELINE OR ADR MIDPOINT LIFE	ADJUSTED ECONOMIC LIFE	COLUMN III X COLUMN VI
1	Land Improvements	Renovation	\$6,208,153	1/16/12	20	26.5	\$164,516,055
2							
3							
4							
5							
6							
			Total: \$6,208,153				Total: \$164,516,055

AVERAGE REASONABLY EXPECTED ECONOMIC LIFE:

COLUMN VII TOTAL \$164,516,055 ÷ COLUMN III TOTAL: \$6,208,153 = 26.5 YEARS



Attachment to Letter of Agreement

AUTHORIZATION LETTER

Grant Recipient: _____

Project Title: _____

TICR Grant #: _____

The following persons are authorized to request funds for the above grant awarded by the Tobacco Indemnification and Community Revitalization Commission:

Signature	Printed Name	Title

All grant payments shall be made payable to:

Organization: _____

Address: _____

City, State, Zip: _____

Federal ID # _____

Signature of Grantee's Chief Executive

Printed Name of Grantee's Chief Executive

Title

Date

**AGENDA
ITEM NUMBER 5D**

**Danville - Pittsylvania Regional Industrial Facility
Authority**

Financial Status

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- A. \$7.3 Million Bonds - Cane Creek Centre
- B. General Expenditures for FY 2012
- C. Mega Park – Funding Other than Bond Funds
- D. \$11.25 Million Bonds – Mega Park
- E. Cane Creek Centre – Lots 3 & 9
- F. Yorktowne Reimbursement
- G. Rent, Interest, and Other Income Realized
- H. Unaudited Financial Statements
- I. Litigation Expense Details

Danville-Pittsylvania Regional Industrial Facility Authority

\$7.3 million Bonds for Cane Creek Centre - Issued in August 2005

As of January 31, 2012

<u>Funding</u>	<u>Funding</u>	<u>Budget / Contract Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended / Unencumbered</u>
Funds from bond issuance	\$ 7,300,000.00				
Issuance cost	(155,401.33)				
Bank fees	(98.25)				
Interest earned to date	486,482.52				
Cane Creek Parkway ³		\$ 3,804,576.00	\$ 3,724,241.16	\$ -	
Swedwood Drive ²		69,414.00	69,414.00	-	
Cane Creek Centre entrance ³		72,335.00	53,878.70	-	
Financial Advisory Services		7,600.00	7,600.00	-	
Dewberry contracts ¹		69,582.50	69,582.50	-	
Dewberry contracts not paid by 1.7 grant ^{4,5}		71,881.00	11,924.62	59,956.38	
Yorktowne Sound Buffer		-	-	-	
Land		-	2,560,921.67	-	
Demolition services		-	33,761.62	-	
Legal fees		-	48,954.23	-	
CCC - Lots 3 & 9 project - RIFA Local Share ⁶		142,190.00	80,122.49	62,067.51	
Other expenditures			10,649.70	-	
Total	\$ 7,630,982.94	\$ 4,237,578.50	\$ 6,671,050.69	\$ 122,023.89	\$ <u>837,908.36</u>

notes:

¹ Dewberry Contracts consist of wetland, engineering, surveying and site preparation

² Funds being used to cover City and County matching contributions for a VDOT grant for Swedwood Drive

³ Project completed under budget

⁴ In September 2008 the outstanding principal balance of \$6,965,000 on the Series 2005 Cane Creek Project Revenue Bonds was tendered and not remarketed. These bonds were converted to bank bonds and are now subject to the Credit and Reimbursement agreement the Authority has with Wachovia Bank. The remarketing agent will continue its attempt to remarket these bonds in order to convert them back to Variable Rate Revenue Bonds. As a result, it is likely that the City and County will have to contribute additional funds in order to make future interest payments on the letter of credit attached to these bonds.

⁴ These contracts were originally to be paid by the \$1.7M Special Projects Grant, this grant has expired and the TIC did not issue an extension. The remaining amounts of the contract will be paid using bond funds.

⁵ The budget amount decreased \$71,279.61 from the September 30, 2010 reports. This amount represented the remaining budget amount carried from the \$1.7 SP grant upon its expiration for the following contracts: Wetland Delineation, Wetland Bank Plan Rev., Stream Concept Plan, & Stream Attribute Plan. Per Shawn Harden of Dewberry, these contracts are complete and finished under budget. The only contract that remains open is for Wetland Monitoring and the budget, expended, and encumbered amounts included here are only for this contract.

⁶ This line item represents the amount of expenditures on the "CCC - Lots 3 & 9" budget sheet that is covered by bond funds. RIFA's local share of 5% of these project costs is being covered by these bond funds.

Road Summary-Cane Creek Parkway:	
English Contract-Construction	\$ 5,363,927.00
Change Orders	165,484.50
Expenditures over contract amount	3,579.50
(Less) County's Portion of Contract	(935,207.00)
(Less) Mobilization Allocated to County	(9,718.00)
Portion of English Contract Allocated to RIFA	4,588,066.00
Dewberry Contract-Engineering	683,850.00
Total Road Contract Allocated to RIFA	\$ 5,271,916.00

Funding Summary - Cane Creek Parkway	
VDOT	\$ 1,467,340.00
Bonds	3,804,576.00
	\$ 5,271,916.00

Danville-Pittsylvania Regional Industrial Facility Authority
General Expenditures for Fiscal Year 2012
As of January 31, 2012

	<u>Funding</u>	<u>Budget</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended / Unencumbered</u>
Funding					
City Contribution	\$ 75,000.00				
County Contribution	75,000.00				
Carryforward from FY11	-				
Contingency					
Bank Fees		\$ 4,100.00	\$ 4,071.25	\$ -	\$ -
Arbitrage Rebate Calculation Fees		2,000.00	2,000.00	-	-
Moody's Investor Service		-	1,100.00	-	-
Cyber Park Parcel Appraisal		-	1,800.00	-	-
Employee Reimbursement		-	44.24	-	-
Miscellaneous contingency items		15,000.00	44.16	-	-
Total Contingency Budget		21,100.00	9,059.65	-	12,940.35
Legal		90,250.00	34,270.13	-	61,336.87
Accounting		18,750.00	18,750.00	-	-
Postage & Shipping		100.00	17.67	-	82.33
Meals		2,800.00	1,627.72	-	1,409.60
Utilities		10,000.00	1,077.18	-	8,912.31
Insurance		7,000.00	-	-	7,000.00
Total	\$ 150,000.00	\$ 150,000.00	\$ 64,802.35	\$ -	<u>\$ 85,197.65</u>

Danville-Pittsylvania Regional Industrial Facility Authority

Mega Park - Funding Other than Bond Funds

As of January 31, 2012

	<u>Funding</u>	<u>Budget / Contract</u> <u>Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended /</u> <u>Unencumbered</u>
Funding					
City contribution	\$ 134,482.50				
County contribution	134,482.50				
City advance for Klutz, Canter, & Shoffner property ^{1,4}	10,340,983.83				
Tobacco Commission FY09 SSED Allocation	3,370,726.00				
Tobacco Commission FY10 SSED Allocation - Engineering Portion	407,725.00				
Land					
Klutz property		\$ 8,394,553.50	\$ 8,394,553.50	\$ -	
Canter property ²		1,200,000.00	1,200,000.00	-	
Adams property		37,308.00	37,308.00	-	
Carter property		5,843.00	5,843.00	-	
Jane Hairston property		1,384,961.08	1,384,961.08	-	
Bill Hairston property		201,148.00	201,148.00	-	
Shoffner Property		1,872,896.25	1,872,896.25	-	
Other					
Dewberry & Davis		28,965.00	28,965.00	-	
Dewberry & Davis ³		990,850.00	954,595.79	36,254.21	
Consulting Services - McCallum Sweeney		115,000.00	92,130.18	22,869.82	
Total	\$ 14,388,399.83	\$ 14,231,524.83	\$ 14,172,400.80	\$ 59,124.03	\$ 156,875.00

¹ This figure does not include the interest the City lost from the uninvested funds, which was paid to the City 1/3/2012 and totaled \$144,150.41.

² Settlement fees were drawn from bonds issued for the Berry Hill project 12/1/2011.

³ This contract was originally for \$814,500, but has been amended to include a traffic impact analysis, and a cemetery survey. \$740,000 will be covered by the FY09 Tobacco Allocation and \$250,850 will be covered by the FY10 Tobacco Allocation.

⁴ RIFA paid the City back for all advances on 1/3/2012.

Danville-Pittsylvania Regional Industrial Facility Authority
\$11.25 million Bonds for Berry Hill Mega Park project - Issued December 1, 2011
As of January 31, 2012

<i>Funding</i>	<u>Funding</u>	<u>Budget / Contract</u> <u>Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended /</u> <u>Unencumbered</u>
Funds from bond issuance	\$ 11,250,000.00				
Issuance cost	(323,405.70)				
Underwriter's Discount	(225,000.00)				
Original Issue Discount	(21,325.15)				
<i>Initial Land Purchases</i> ¹		-	10,345,376.83	-	
<i>Interest owed to City on fronts for land purchases</i>		-	144,150.41	-	
<i>Legal fees</i>		-	148,396.67	-	
<i>Dewberry & Davis Project Presentatation</i>		-	14,785.00	-	
<i>Other expenditures</i>		-	17,254.39	-	
Total	\$ 10,680,269.15	\$ -	\$ 10,669,963.30	\$ -	<u>\$ 10,305.85</u>

¹ The City of Danville fronted the funds for \$10,340,983.83 of these land purchases. RIFA reimbursed the City of Danville this amount plus the interest owed, which totaled \$144,150.41, on 1/3/2012 using the bond funds drawn down.

Danville-Pittsylvania Regional Industrial Facility Authority

Cane Creek Centre - Lots 3 & 9

As of January 31, 2012

	<u>Funding</u>	<u>Budget / Contract Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended / Unencumbered</u>
<i>Funding</i>					
EDA Grant Investment	\$ 2,275,030.00				
Tobacco Commission FY10 Reserve Fund Allocation	426,568.00				
Local Match - RIFA ¹	142,190.00				
<i>Expenditures</i>					
Haymes Brothers, Inc. ²		\$ 1,488,466.71	\$ 1,488,466.71	\$ -	
Dewberry & Davis		111,600.00	111,600.00	-	
Advertisements for bids		-	2,383.00	-	
Total	\$ 2,843,788.00	\$ 1,600,066.71	\$ 1,602,449.71	\$ -	<u>\$ 1,241,338.29</u>

¹ Bond funds are available to cover this local match.

² Please note that the expended amount does not include 5% retainage withheld that has not yet been paid by RIFA to Haymes Brothers, Inc.

Danville-Pittsylvania Regional Industrial Facility Authority
 Rent, Interest, and Other Income Realized
 As of January 31, 2012

<u>Funding</u>	<u>Funding</u>	<u>Expenditures</u>	<u>Unexpended / Unencumbered</u>
<u>Rental Properties</u>			
<u>Lessee</u>	<u>Property</u>	<u>Rent Received</u>	
<i>Cyberpark</i>			
Institute for Advanced Learning and Research (IALR) ^{1,4}	Hawkins Research Building at 230 Slayton Ave.	\$ 533,162.88	
Securitas	Gilbert Building at 1260 South Boston Rd.	12,500.00	
<i>Cane Creek Centre</i>			
Stephen R. & Susan G. Wilson	Hughes House at 390 Cedar Lane	2,800.00	
Douglas C. Agner	Hughes House at 390 Cedar Lane	6,000.00	
Richard A. Parker	Hughes House at 390 Cedar Lane	2,400.00	
Axxor N.A. LLC ⁶	Apartments at 390 Cedar Lane	1,750.00	
<i>Berry Hill Mega Park</i>			
Guilford Whitetail Management	Klutz Farm off State Rd. 863	11,000.00	
Oak Hill Hunt Club	Hairston Farm off State Rd. 863	8,000.00	
Patten Seed Company	30 acre tract on Stateline Bridge Rd.	6,500.00	
Browning & Associates, Ltd. ⁵	4380 Berry Hill Road House	7,750.00	
Osborne Company of North Carolina, Inc.	4380 Berry Hill Road Pastureland	800.00	
<i>Total Rent</i>		\$ 592,662.88	
<i>Interest Received</i> ²		\$ 23,224.54	
 <i>Expenditures</i>			
Disbursement to IALR for SEnteC project ¹		\$ 278,812.00	
Transfer to General Expenditures budget ³		50,000.00	
 <i>Total</i>		\$ 615,887.42	\$ 287,075.42

¹ A portion of the rent received from the IALR for the Hawkins Research Building was Board-restricted for the SEnteC project. RIFA disbursed \$278,812.00 to the IALR to fully satisfy this commitment made by the Board at the June 11, 2008 meeting.

² Please note that this is only interest received on RIFA's general money market account.

³ The RIFA Board approved to transfer \$50,000 from rental income realized to the General Expenditures budget at its March 14, 2011 meeting.

⁴ Please note that these rent proceeds must be used in accordance with the U.S. Economic Development Administration's (EDA) Standard Terms and Conditions

⁵ Please note that Browning & Associates has paid a \$1,000 security deposit per the lease agreement that is not included in rental income above.

⁶ Please note that Axxor N.A. LLC has paid a \$500 security deposit per the lease agreement that is not included in rental income above.

Danville-Pittsylvania Regional Industrial Facility Authority
Statement of Net Assets^{1, 2}
January 31, 2012*

	Unaudited FY 2012
Assets	
<i>Current assets</i>	
Cash - checking	\$ 543,316
Cash - money market	389,816
<i>Total current assets</i>	933,132
<i>Noncurrent assets</i>	
Restricted cash - project fund CCC bonds	1,046,440
Restricted cash - debt service fund CCC bonds	839,494
Restricted cash - project fund Berry Hill bonds	18,623
Restricted cash - debt service fund Berry Hill bonds	2,000,000
Capital assets not being depreciated	24,962,931
Capital assets being depreciated, net	27,244,055
Construction in progress	1,930,750
Unamortized bond issuance costs	678,512
<i>Total noncurrent assets</i>	58,720,805
Total assets	59,653,937
Liabilities	
<i>Current liabilities</i>	
Bonds payable - current portion	5,825,000
Security deposit	1,500
<i>Total current liabilities</i>	5,826,500
<i>Noncurrent liabilities</i>	
Bonds payable - less current portion	11,320,000
<i>Total noncurrent liabilities</i>	11,320,000
Total liabilities	17,146,500
Net Assets	
Invested in capital assets - net of related debt	40,897,293
Unrestricted	1,610,144
Total net assets	\$ 42,507,437

¹ Please note that this balance sheet does not include the Due to/Due from between the County and the City since it nets out and only changes at fiscal year-end.

² Please note that this balance sheet does not include all general accounts receivable or accounts payable at the month-end date. This is because information regarding accrued receivables/payables is not available at the time of statement preparation.

*Please note that these statements are for the period ended January 31, 2012 as of February 1, 2012, the date of preparation. Due to statement preparation occurring in close proximity to month-end, these statements may not include some pending adjustments for the period.

Danville-Pittsylvania Regional Industrial Facility Authority
Statement of Revenues and Expenses and Changes in Fund Net Assets
*January 31, 2012**

	Unaudited FY 2012
Operating revenues	
Economic Development Administration grants	793,418
Virginia Tobacco Commission grants	54,554
Rental income	141,065
Other grants	-
Total operating revenues	989,037
Operating expenses ⁴	
Mega Park expenses ³	6,031
Cane Creek Centre expenses ^{3,5}	1,374,944
Cyber Park expenses ³	4,110
Professional fees	44,742
Insurance	5,729
Other operating expenses	2,812
Total operating expenses	1,438,368
Operating loss	(449,331)
Non-operating revenues (expenses)	
Interest income	285
Interest expense	(12,674)
Total non-operating expenses, net	(12,389)
Net loss before capital contributions	(461,720)
Capital contributions	
Contribution - City of Danville	1,337,392
Contribution - Pittsylvania County	1,337,392
Total capital contributions	2,674,784
Change in net assets	2,213,064
Net assets at July 1,	40,294,373
Net assets at January 31,	\$ 42,507,437

³ A portion or all of these expenses may be capitalized at fiscal year-end.

⁴ Please note that most non-cash items, such as depreciation and amortization, are not included here until year-end entries are made.

⁵ Please note that this line item includes \$37,415 for fees related to the \$7.3M bonds for Cane Creek.

*Danville-Pittsylvania Regional Industrial Facility Authority
Statement of Cash Flows
January 31, 2012**

	Unaudited FY 2012
Operating activities	
Receipts from grant reimbursement requests	\$ 1,130,413
Receipts from leases	138,367
Payments to suppliers for goods and services	(1,707,755)
Net cash used in operating activities	(438,975)
Capital and related financing activities	
Capital contributions	2,674,784
Interest paid on bonds	(7,580)
Proceeds from bond issuance	11,003,675
Bond issuance costs	(323,406)
Repayment to City for cash advances and interest on advances	(10,485,134)
Principal repayments on bonds	(285,000)
Net cash provided by capital and related financing activities	2,577,339
Investing activities	
Interest received	285
Net cash provided by investing activities	285
Net increase in cash and cash equivalents	2,138,649
Cash and cash equivalents - beginning of year (including restricted cash)	2,699,040
Cash and cash equivalents - through January 31, 2012 (including restricted cash)	\$ 4,837,689
Reconciliation of operating loss before capital contributions to net cash used in operating activities:	
Operating loss	\$ (449,331)
Changes in assets and liabilities:	
Change in prepaids	10,113
Change in due from other governments	282,441
Change in other receivables	3,500
Change in accounts payable	(279,498)
Change in unearned income	(6,700)
Change in security deposit	500
Net cash used in operating activities	\$ (438,975)

Components of cash and cash equivalents at January 31, 2012:	
American National - Checking	\$ 543,316
American National - General money market	389,816
Wachovia - \$7.3M Bonds CCC Debt service fund	839,494
Wachovia - \$7.3M Bonds CCC Project fund	1,046,440
US Bank - \$11.25M Bonds Berry Hill Debt service fund	2,000,000
US Bank - \$11.25M Bonds Berry Hill Project fund	18,623
	\$ 4,837,689

Danville-Pittsylvania Regional Industrial Facility Authority

Litigation Expense Detail

As of January 31, 2012

Fiscal Year 2009 Litigation Fees	\$	43,891.33
Fiscal Year 2010 Litigation Fees		11,814.15
Fiscal Year 2011 Litigation Fees		28,128.30
Fiscal Year 2012 Litigation Fees		<u>3,364.80</u>
Total litigation fees		87,198.58
Sanctions received		4,370.62
Interest on sanctions received		<u>42.00</u>
Total received		4,412.62
Net		<u><u>82,785.96</u></u>