

Danville-Pittsylvania Regional Industrial Facility Authority

**City of Danville, Virginia
County of Pittsylvania, Virginia**

AGENDA

Monday, July 8, 2013

12:00 Noon

**Danville Regional Airport
Eastern Conference Room
424 Airport Drive, Danville, Virginia**

County of Pittsylvania Members

**Coy E. Harville, Vice Chair
James H. Snead
Jessie L. Barksdale, Alternate**

City of Danville Members

**Sherman M. Saunders, Chair
Fred O. Shanks, III
J. Lee Vogler, Jr., Alternate**

Staff

**Joseph C. King, City Manager, Danville
William D. Sleeper, Pittsylvania County Administrator
Clement & Wheatley, Legal Counsel to Authority
Susan M. DeMasi, Authority Secretary
Barbara A. Dameron, Authority Treasurer**

Danville-Pittsylvania Regional Industrial Facility Authority

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 JUNE 10, 2013 MEETING

5. OLD BUSINESS

Consideration of Resolution No. 2013-07-08-5, approving (i) Amendment to Lease Agreement between the Authority (as Landlord) and the Institute of Advanced Learning and Research (the "Institute"), a political subdivision of the Commonwealth of Virginia (as Tenant), pertaining to the Charles Hawkins Building, located in the Authority's Cyber Park, under which the term would renew for successive periods of one year each unless either party gives the other party notice of its intention not to renew at least 90 days prior to the expiration of the then current Term; the consumer price index would be removed and replaced as the mechanism for determining rent increases; Rent would be \$10.00 per year, per square foot of space for that portion of the Charles Hawkins Building physically occupied by Tenant or any assignee or subtenants of Tenant; and Landlord would be responsible for certain maintenance of and repairs to the Charles Hawkins Building; and (ii) Addendum to Lease Agreement for the same lease under which the Institute would be contracted to perform certain maintenance and repairs to the Charles Hawkins Building at an annual rate of compensation equal to the current Rent payable, subject to annual consideration and adjustment – Michael C. Guanzon, Esq., Clement & Wheatley, Authority Legal Counsel [Resolution No. 2013-07-08-5 to supersede Resolution No. 2013-06-10-5]

6. NEW BUSINESS

- A. Consideration of Resolution No. 2013-07-08-6A, approving that certain Professional Services Agreement dated June 13, 2013, with Wetland Studies and Solutions, Inc., a Virginia corporation, as an independent contractor, for specialized consultant assistance with the Authority's applications for permits from the U.S. Army Corps of Engineers and Virginia Department of Environmental Quality for impacts to Waters of the U.S., associated with the development of the Authority's Mega Park project located in Pittsylvania County, Virginia; with fees charged not to exceed an aggregate cost of \$150,000, according to a task schedule – Richard Drazenovich, P.E., Director of Public Works, City of Danville
- B. Update on CBN Secure Technologies, Inc., a Florida corporation, and its activities in its facility located in the Authority's Cyber Park project – Jeremy A. Stratton, Director of the Office of Economic Development, City of Danville

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- C. Update on companies operating in the Authority's projects and on the status of their performance agreements – Mr. Stratton
- D. Financial Status Report as of June 30, 2013 – Ms. Dameron and Ms. Conner

7. COMMUNICATIONS FROM:

Jessie L. Barksdale
Coy E. Harville
Sherman M. Saunders
Fred O. Shanks, III
James H. Snead
J. Lee Vogler, Jr.
Staff

8. ADJOURN

Danville-Pittsylvania Regional Industrial Facility Authority

Executive Summary

Agenda Item No.:	4
Meeting Date:	07/08/2013
Subject:	Meeting Minutes
From:	Susan M. DeMasi, Authority Secretary

SUMMARY

Attached for the Board's approval are the Meeting Minutes from the Monday, June 10, 2013 meeting.

ATTACHMENTS Meeting Minutes – 06/10/13

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

Minutes

June 10, 2013

The Regular Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority convened at 12:00 p.m. on the above date in the Danville Regional Airport Conference Room, 424 Airport Drive, Danville, Virginia. Present were City of Danville Members Chairman Sherman M. Saunders and Alternate J. Lee Vogler; Fred O. Shanks, III was absent. Pittsylvania County Members present were Vice Chairman Coy E. Harville and James Snead; Alternate Jessie L. Barksdale was absent.

City/County staff members attending were: Deputy City Manager Ken Larking, County Administrator Dan Sleeper, Danville Finance Director/Authority Treasurer Barbara Dameron, County Director of Finance Kim Van Der Hyde, Assistant County Administrator for Planning & Development Gregory Sides, City of Danville Project Manager Corrie Teague, Governmental Affairs Consultant Linwood Wright, City of Danville Senior Accountant Patricia Conner and Clement & Wheatley Attorney Michael Guanzon.

Chairman Saunders called the Meeting to order.

PUBLIC COMMENT PERIOD

No one present desired to be heard.

APPROVAL OF MINUTES OF THE MAY 13, 2013 MEETING

Upon **Motion** by Mr. Harville and **second** by Mr. Snead, Minutes of the May 13, 2013 meeting were approved as presented. Draft copies had been distributed to Authority Members prior to the Meeting.

OLD BUSINESS

5A. CONSIDERATION – RESOLUTION 2013-06-10-5 – APPROVING AMENDMENT AND ADDENDUM TO LEASE AGREEMENT WITH IALR – CHARLES HAWKINS BUILDING

Authority Attorney Michael Guanzon noted this item was a follow up item from last month.

Mr. Harville **moved** adoption of *Resolution No. 2013-06-10-5 approving (i) Amendment to Lease Agreement between the Authority (as landlord) and The Institute of Advanced Learning and Research (the "Institute"), a political subdivision of the Commonwealth of Virginia (as tenant), pertaining to the Charles Hawkins Building, located in the Authority's Cyber Park, under which the term would be extended for five years and thereafter for successive renewals of one year each, and Landlord would be responsible for certain maintenance and repairs in the event that the building was not occupied by a permitted sublessee or a permitted assignee of Tenant; and (ii) Addendum to Lease Agreement for the same lease under which the Institute would be contracted to perform certain maintenance and repairs to the Charles Hawkins Building at an annual rate of compensation equal to \$10 per square foot, subject to annual consideration and adjustment.*

The Motion was **seconded** by Mr. Harville. After questions and discussions, the **Motion** was carried by the following vote:

VOTE: 4-0
AYE: Harville, Snead, Saunders, Vogler (4)

NAY: None (0)

NEW BUSINESS

6A. UPDATE ON PERMITTING APPLICATIONS FOR THE AUTHORITY'S MEGA PARK PROJECT LOCATED IN PITTSYLVANIA COUNTY, VIRGINIA

Greg Sides noted staff asked Mr. Harden to put on hold his full update as there is so much going on. The Corp of Engineers has sent a letter back to RIFA based on the application, asking for information they need clarified or additional information. A small committee meeting consisting of City and County staff has discussed those comments and started working on addressing them and the best strategy for that. Staff will be in a better position in the future to update the Authority.

6B. CONSIDERATION – RESOLUTION NO. 2013-06-10-6B - RENEWAL OF HUNTING LEASE WITH JAY VANN CLODFELTER AND BRENT CLODFELTER

County Administrator Dan Sleeper noted the current lease ends June 30, 2013. This item is so the Authority can renew it and also see some additional funding. Currently, the Authority is receiving \$1,500 for leasing the Hairston Farm and the tenants have asked for an additional 189 acres to be added to that for an additional \$500. They will be paying \$2,000 a year for 561 acres as opposed to the 372 that they currently lease.

Mr. Harville **moved** adoption of *Resolution 2013-06-10-6B, approving a one-year renewal of the hunting lease with Jay Vann Clodfelter and Brent Clodfelter, as tenant, of approximately 561.13 acres, more or less, at the Authority's Mega Park Site (GPINs 1366-16-2959 and 1366-37-2002, commonly known as the Hairston Farm, and GPIN 1367-01-8739), for the uses of hunting, fishing and related outdoor recreational activities, at a total rental fee of \$2,000.*

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

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

6C. CONSIDERATION – RESOLUTION NO. 2013-06-10-6C – AUTHORIZING ISSUANCE OF TAXABLE REVENUE REFUNDING BOND (CANE CREEK PROJECT) SERIES 2013

Authority Treasurer Barbara Dameron noted the Authority's Letter of Credit expires the 1st of August and Wells Fargo came back with some alternatives, particularly in trying to fix the interest rate. The option that staff recommends would fix the interest rate at 1.85%. This also eliminates some risk, and eliminates some fairly hefty fees that are part of that process. The City and the County will be asked for a Moral Obligation which will not be a new one, it will replace the existing one the Authority currently has for Cane Creek.

Mr. Snead **moved** adoption of *Resolution 2013-06-10-6C authorizing the issuance of the Authority's taxable revenue refunding bond (Cane Creek project), Series 2013; authorizing the execution and delivery of all bond documents, not to exceed \$5,700,000, in connection therewith including without limitation the Financing Agreement, the Bond and the Support*

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

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Agreements; and authorizing other matters in connection therewith, in order to refinance the prior \$7,300,000 Revenue Bonds (Cane Creek Project), Series 2005.

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

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

6D. FY 2014 PROPOSED GENERAL EXPENDITURES REPORT

Senior Accountant Patricia Connor noted the agenda packet shows the current General Expenditures Budget for FY2013 as of May 31, 2013 compared to what staff is seeking for funding for FY2014. There are not any significant changes other than a reduction in the accounting fee for the annual audit, and a reduction in the Utilities budget. Last year shows funding for utilities estimated at \$4,000, this year staff is estimating \$500 since RIFA is now only paying for the Cyber Park sign.

Mr. Snead **moved** to approve the FY2014 Proposed General Expenditures Budget. The Motion was **seconded** by Mr. Snead and carried by the following vote:

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

6E. FINANCIAL STATUS REPORT AS OF MAY 31, 2013

Authority Treasurer Barbara Dameron noted there were minimal expenses beginning with Cane Creek Centre showing no changes for the month of May. Under General Expenses, \$375 which were meals, legal and utilities. The Mega Park showed no expenses as well as Berry Hill Lot 4 Site development, no charges. Under Funds Available for Appropriation, the CBN Grant Agreement is part of that budget and the Authority has paid that grading grant. The Summary of Rent, Interest and Other Income shows the Authority received \$10,200 in rental income and the Financial Statements show the impact of those changes. Mr. Harville requested an update on the status of the Cane Creek performance agreements.

Mr. Snead **moved** to accept the Financial Report as presented. The Motion was **seconded** by Mr. Vogler and carried by the following vote:

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

COMMUNICATIONS

Mr. Saunders questioned Mr. Sides about the Corp of Engineers, if Henry County is making any progress with their efforts with the Corp. Mr. Sides noted to his knowledge they are not making any progress.

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Mr. Saunders noted the Authority is very proud of CBN, what they do, their expansion and that a tour may not be appropriate because of security reasons, but asked for an update on how they are doing.

Mr. Harville thanked Joe King for taking care of the AVRC issue. The grass had not been cut and it was decided rather than for RIFA to get into it, just let the City do it. The grass has been cut and looks much better.

MEETING ADJOURNED AT 12:34 P.M.

Chairman

Secretary to the Authority

DRAFT

Danville-Pittsylvania Regional Industrial Facility Authority

Executive Summary

Agenda Item No.:	5
Meeting Date:	07/08/2013
Subject:	Amendment and Addendum to Lease Agreement with the Institute for Advanced Learning and Research
From:	Michael C. Guanzon, Esq. Clement & Wheatley, Authority Legal Counsel

SUMMARY

At the June 2013 meeting, the Authority passed Resolution No. 2013-06-10-5; however, when presented with the Amendment and the Addendum to the Lease Agreement, the Institute requested that certain business points be clarified. After the Institute and Staff met, the Amendment and the Addendum were revised to provide the following:

- 1-Year Lease Term with Annual Renewals. The term of the Lease Agreement is year to year. Either party may opt to not renew upon at least 90-days prior notice.
- \$10/ft.² Annual Rent for Actual Occupied Space. Annual rent is \$10 per square foot for that portion of the Charles Hawkins Building physically occupied by Tenant or its assignee or subtenant. Rent is payable in monthly installments. There will no longer be automatic increases in rent based on changes in the consumer price index.
- Rent Increases. Because the lease term is year to year, the Authority may increase the rent for the next one-year renewal by giving at least 60-days notice. If the Institute disagrees with the proposed rent increase, the Institute can terminate the Lease by giving notice within 90 days after the rent increase notice is given.
- Annual Service Fee to the Institute = \$10/ft.² for Actual Occupied Space to the Institute for Maintenance and Repair of Entire Building. Under the Amendment, the Authority is responsible for all maintenance and repairs to the Charles Hawkins Building; however, those obligations of the Authority shift to the Institute under the Addendum. The Authority pays to the Institute a service fee which is equal to the annual rent. The Institute bears the risk that the service fee is less than the actual costs of repairs and maintenance.
- Required Annual Accountings. The Institute is required to give to the Authority annual accountings detailing the repairs and maintenance performed and the associated costs and expenses.

RECOMMENDATION

Staff recommends approval of the replacement Amendment and Addendum to the Lease Agreement with the Institute as presented.

ATTACHMENTS

1. Amendment to Lease Agreement
2. Addendum to Lease Agreement

A RESOLUTION TO APPROVE (I) AMENDMENT TO LEASE AGREEMENT BETWEEN THE AUTHORITY (AS LANDLORD) AND THE INSTITUTE OF ADVANCED LEARNING AND RESEARCH (THE “INSTITUTE”), A POLITICAL SUBDIVISION OF THE COMMONWEALTH OF VIRGINIA (AS TENANT), PERTAINING TO THE CHARLES HAWKINS BUILDING, LOCATED IN THE AUTHORITY’S CYBER PARK, UNDER WHICH THE TERM WOULD RENEW FOR SUCCESSIVE PERIODS OF ONE YEAR EACH UNLESS EITHER PARTY GIVES THE OTHER PARTY NOTICE OF ITS INTENTION NOT TO RENEW AT LEAST 90 DAYS PRIOR TO THE EXPIRATION OF THE THEN CURRENT TERM; THE CONSUMER PRICE INDEX WOULD BE REMOVED AND REPLACED AS THE MECHANISM FOR DETERMINING RENT INCREASES; RENT WOULD BE \$10.00 PER YEAR, PER SQUARE FOOT OF SPACE FOR THAT PORTION OF THE CHARLES HAWKINS BUILDING PHYSICALLY OCCUPIED BY TENANT OR ANY ASSIGNEE OR SUBTENANTS OF TENANT; AND LANDLORD WOULD BE RESPONSIBLE FOR CERTAIN MAINTENANCE OF AND REPAIRS TO THE CHARLES HAWKINS BUILDING; AND (II) ADDENDUM TO LEASE AGREEMENT FOR THE SAME LEASE UNDER WHICH THE INSTITUTE WOULD BE CONTRACTED TO PERFORM CERTAIN MAINTENANCE AND REPAIRS TO THE CHARLES HAWKINS BUILDING AT AN ANNUAL RATE OF COMPENSATION EQUAL TO THE CURRENT RENT PAYABLE, SUBJECT TO ANNUAL CONSIDERATION AND ADJUSTMENT

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 Authority, as Landlord, and the Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia (the “**Institute**”), as Tenant, made and entered into that certain Lease Agreement dated August 6, 2008 (the “**Lease Agreement**”), for the lease of that certain lot or parcel of land, together with all improvements thereon and appurtenances thereunto belonging, located at 230 Slayton Avenue in the City of Danville, Virginia, identified as Parcel ID Number 78360, which includes without limitation that certain building commonly known as the “**Charles Hawkins Building**”; and

WHEREAS, the initial term of the Lease Agreement expired June 1, 2013, and the Lease Agreement shall automatically renew for an additional five (5) year period; however, the parties wish to amend the Lease Agreement effective as of June 1, 2013 as set forth in (i) that certain Amendment to Lease Agreement (the “**Amendment**”), attached hereto as **Exhibit A**, incorporated herein by this reference and (ii) that certain Addendum to Lease Agreement (the “**Addendum**”), attached hereto as **Exhibit B**, incorporated herein by this reference; and

WHEREAS, under the Amendment, (i) upon the expiration of the initial term of the Lease Agreement, the term of the Lease Agreement would automatically renew thereafter for successive one (1) year periods (each, a “**Renewal Period**”), unless either party gives the other party notice of its intention not to renew at least ninety (90) days prior to the expiration of the then current term, (ii) rent increases would no longer be determined by the Consumer Price

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Index; instead, the rent amount payable under the Lease Agreement (as amended by the Amendment and Addendum) for any Renewal Period would be reviewed by Landlord within sixty (60) days prior to the beginning of any Renewal Period, notice of any increase would be given to Tenant, and Tenant would have the right within ninety (90) days after notice of such rent increase to terminate the Lease Agreement (as amended by the Amendment and the Addendum), (iii) the parties agree that the rent payable during the Renewal Period beginning June 1, 2013 is Ten and 00/100 Dollars (\$10.00) per year, per square foot of space for that portion of the Building (as defined in the Lease Agreement) physically occupied by Tenant or any assignee or subtenants of Tenant, (iv) during any Renewal Period the Rent would be payable monthly on or before the first (1st) day of each month of such Renewal Period, and (v) Landlord would be responsible during any Renewal Period for certain maintenance and repairs and to the Charles Hawkins Building; and

WHEREAS, under the Addendum, the Institute would be contracted to perform during any Renewal Period certain maintenance and repairs to the Charles Hawkins Building as set forth in the Amendment, the costs of which shall be subject to annual review by the parties, at an amount equal to the rent payable during such Renewal Period, which amount shall be paid on the same schedule as rent is paid under the Lease Agreement (as amended by the Amendment and the Addendum); and

WHEREAS, the Authority has determined that it is in the best interests of the Authority, the citizens of Pittsylvania County and the City of Danville, and the improvement of the Authority's Cyber Park project for the Authority to enter into (i) the Amendment and (ii) the Addendum; and

WHEREAS, this resolution hereby supersedes and replaces in its entirety Resolution No. 2013-06-10-5, which was previously considered and adopted by the Authority at its meeting on June 10, 2013.

NOW, THEREFORE, BE IT RESOLVED, that

1. The Authority hereby approves the Amendment as set forth in **Exhibit A** and as reviewed at this meeting, together with such amendments, deletions or additions thereto as may be approved by any one or more of the Chairman or Vice Chairman of the Authority, and hereby authorizes each of them to execute and deliver the Amendment on behalf of the Authority, such execution of the Amendment by the Chairman or Vice Chairman to conclusively establish his approval of any amendments, deletions or additions thereto.

2. The Authority hereby approves the Addendum as set forth in **Exhibit B** and as reviewed at this meeting, together with such amendments, deletions or additions thereto as may be approved by any one or more of the Chairman or Vice Chairman of the Authority, and hereby authorizes each of them to execute and deliver the Addendum on behalf of the Authority, such execution of the Addendum by the Chairman or Vice Chairman to conclusively establish his approval of any amendments, deletions or additions thereto.

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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 Amendment and the Addendum, or as they in their discretion deem necessary or appropriate in order to carry out the intent and purposes of these resolutions.

3. The Authority hereby approves, ratifies and confirms any and all actions previously taken by the Authority, its agents and representatives, in respect to the Amendment, the Addendum, and the matters contemplated therein.

4. 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 July 8, 2013, 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 8th day of July 2013.

SUSAN M. DeMASI, Secretary
Danville-Pittsylvania Regional Industrial Facility
Authority

(SEAL)

Exhibit A
(Amendment to Lease Agreement)
AMENDMENT TO LEASE AGREEMENT

THIS AMENDMENT TO LEASE AGREEMENT (this “**Amendment**”) is made effective as of the 1st day of June 2013, by and between **DANVILLE-PITTSYLVANIA COUNTY REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia (“**Landlord**”), and **INSTITUTE FOR ADVANCED LEARNING AND RESEARCH**, a political subdivision of the Commonwealth of Virginia (“**Tenant**”).

WITNESSETH:

THAT for and in consideration of the mutual covenants and promises of the parties to this Amendment, the parties do agree as follows:

1. Recitals. The parties hereto recite the following:

(a) Landlord and Tenant made and entered into a Lease Agreement dated as of August 6, 2008 (the “**Lease Agreement**”), for the lease by Landlord to Tenant of that certain lot or parcel of land, together with all improvements thereon and appurtenances thereunto belonging, located at 230 Slayton Avenue in the City of Danville, Virginia, identified as Parcel ID Number 78360. Capitalized terms not otherwise defined herein shall have the meanings given them in the Lease Agreement.

(b) The Lease Agreement remains in full force and effect, but the parties desire to make certain amendments to the Lease Agreement, as set forth herein.

2. Amendments to Lease Agreement. The parties do hereby amend the Lease Agreement as follows:

(a) Section 3.1 of the Lease Agreement is hereby amended and restated to read in its entirety as follows:

“3.1 Term. The term of this Lease (“**Term**”) shall begin upon the Commencement Date and shall extend for a period of five (5) years after the Commencement Date. The Term of this Lease shall automatically renew thereafter for successive one (1) year periods (each, a “**Renewal Period**”), unless either party gives the other party notice of its intention not to renew at least ninety (90) days prior to the expiration of the then current Term.”

(b) Section 3.2 of the Lease Agreement is hereby amended and restated to read in its entirety as follows:

“3.2 Rent. Throughout the Term, Tenant shall pay Landlord rent of Ten and 00/100 Dollars (\$10.00) per year, per square foot of space for that portion of the Building physically occupied by Tenant or any assignee or subtenants of Tenant (the “**Rent**”), payable in equal

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consecutive monthly installments on or before the first (1st) day of each month. Should the occupancy change during a Renewal Term, the Rent shall be adjusted pro rata. Within sixty (60) days prior to the beginning of any Renewal Period, Landlord shall review the rate of Rent payable during such upcoming Renewal Period and shall give notice to Tenant of any increase thereto for the ensuing Renewal Period (“Rent Increase Notice”). In the event of such Rent Increase Notice, Tenant shall have the right, by giving notice to Landlord within ninety (90) days after the Rent Increase Notice, to terminate the Lease without cause and without any further obligations hereunder, other than obligations that accrued prior to the effective date of termination. Landlord and Tenant hereby agree that the Rent payable by Tenant to Landlord for the Renewal Period beginning June 1, 2013, is Ten and 00/100 Dollars (\$10.00) per year, per square foot for that portion of the Building physically occupied by Tenant or any assignee or subtenants of Tenant.”

(c) Section 4.3 of the Lease Agreement is hereby amended by adding thereto the following paragraph between the first and second paragraphs thereof:

“Notwithstanding the foregoing, Landlord agrees, at its expense, to maintain throughout any Renewal Period all of the building located on the Demised Premises commonly known as the “Charles Hawkins Building” (the “Charles Hawkins Building”), including both the interior and exterior thereof, its parking areas, its landscaped areas, and its plumbing, heating, air conditioning, and electrical systems, in good operating condition.”

(d) Section 4.4 of the Lease Agreement is hereby amended by adding to the end thereto the following paragraph:

“Notwithstanding the foregoing, Landlord agrees, at its expense, throughout any Renewal Period, (i) to perform all ordinary and minor repairs related to normal “wear and tear” relating to all of the Charles Hawkins Building, its parking areas, and its landscaped areas and (ii) to perform all major repairs relating to and to replace as necessary all of the Charles Hawkins Building, its parking areas, and its landscaped areas.”

3. Effect on Lease Agreement. Except as amended by this Amendment, all other terms, provisions, and conditions of the Lease Agreement shall remain in full force and effect, and the parties hereby ratify and confirm that the Lease Agreement, as amended by this Amendment, is and remains in full force and effect.

4. Due Authorization. Each party represents, warrants, and agrees that the execution and performance of this Amendment by such party have been duly approved by all necessary action of such party’s governing body, that the individual executing this Amendment on behalf of such party is duly authorized to do so, and that this Amendment is a valid binding, legal obligation of such party, enforceable in accordance with its terms.

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5. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Amendment.

[SIGNATURE PAGE FOLLOWS]

WITNESS the following signatures to this **AMENDMENT TO LEASE AGREEMENT** effective as of the date first above written:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing Amendment to Lease Agreement was acknowledged before me by _____ acting in his capacity as _____ of the Danville-Pittsylvania Regional Industrial Facility Authority, a political subdivision of the Commonwealth of Virginia, this ____ day of _____ 2013.

My commission expires: _____.

Notary Public

Registration No. _____

INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, a political subdivision of the Commonwealth of Virginia

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing Amendment to Lease Agreement was acknowledged before me by _____ acting in his/her capacity as _____ of the Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia, this ____ day of _____ 2013.

My commission expires: _____.

Notary Public

Registration No. _____

Exhibit B

(Addendum to Lease Agreement)

ADDENDUM TO LEASE AGREEMENT

THIS ADDENDUM TO LEASE AGREEMENT (this “**Addendum**”) is made effective as of the 1st day of June 2013, by and between **DANVILLE-PITTSYLVANIA COUNTY REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia (“**Landlord**”), and **INSTITUTE FOR ADVANCED LEARNING AND RESEARCH**, a political subdivision of the Commonwealth of Virginia (“**Tenant**”).

WITNESSETH:

THAT for and in consideration of the mutual covenants and promises of the parties to this Addendum, the parties do agree as follows:

6. Recitals. The parties hereto recite the following:

(a) Landlord and Tenant made and entered into a Lease Agreement dated as of August 6, 2008, as amended by an Amendment to Lease Agreement made and entered into by Landlord and Tenant as of even date herewith (collectively, the “**Lease Agreement**”), for the lease by Landlord to Tenant of that certain lot or parcel of land, together with all improvements thereon and appurtenances thereunto belonging, located at 230 Slayton Avenue in the City of Danville, Virginia, identified as Parcel ID Number 78360. Capitalized terms not otherwise defined herein shall have the meanings given them in the Lease Agreement.

(b) The Lease Agreement remains in full force and effect, but the parties desire to enter into this Addendum with respect to the engagement by Landlord of Tenant to perform Landlord’s maintenance and repair obligations under the Lease Agreement as set forth below.

7. Engagement of Tenant; Compensation. Subject to the terms and conditions set forth herein, Landlord hereby engages Tenant, and Tenant hereby accepts such engagement, to perform and provide throughout any Renewal Period all of Landlord’s maintenance and repair obligations with respect to the Charles Hawkins Building as set forth in the Lease Agreement (collectively, the “**Services**”), the costs of which shall be subject to annual review by the parties hereto. As consideration for the performance and provision by Tenant of the Services hereunder, Landlord shall pay to Tenant an amount equal to the Rent paid by Tenant to Landlord during such Renewal Period, which amount shall be paid on the same schedule as Rent is paid under the Lease Agreement. As of the date hereof, the Rent is equal to Ten and 00/100 Dollars (\$10.00) per year, per square foot of space for that portion of the Building physically occupied by Tenant or any assignee or subtenants of Tenant.

8. Right of Setoff. To the extent permitted by law, Tenant agrees that Landlord has the right to set off any amount due and payable by Landlord to Tenant hereunder against any amount owing by Tenant to Landlord. Such right of setoff may be exercised by Landlord against Tenant or against any assigns for the benefit of creditors, receivers, or execution, judgment, or attachment creditors of Tenant, or against anyone else claiming through or against Tenant.

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9. Annual Accounting. Tenant shall prepare and submit to Landlord an annual accounting detailing the Services rendered and the costs and expenses thereof.

10. Effect on Lease Agreement. Except as modified in this Addendum, all other terms, provisions, and conditions of the Lease Agreement shall remain in full force and effect, and the parties ratify and confirm that the Lease Agreement, as modified by this Addendum, is and remains in full force and effect.

11. Due Authorization. Each party represents, warrants, and agrees that the execution and performance of this Addendum by such party have been duly approved by all necessary action of such party's governing body, that the individual executing this Addendum on behalf of such party is duly authorized to do so, and that this Addendum is a valid binding, legal obligation of such party, enforceable in accordance with its terms.

12. Counterparts. This Addendum may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Amendment.

[SIGNATURE PAGE FOLLOWS]

Resolution No. 2013-07-08-5

WITNESS the following signatures to this **ADDENDUM TO LEASE AGREEMENT** effective as of the date first above written:

DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing Addendum to Lease Agreement was acknowledged before me by _____ acting in his capacity as _____ of the Danville-Pittsylvania Regional Industrial Facility Authority, a political subdivision of the Commonwealth of Virginia, this ____ day of _____ 2013.

My commission expires: _____.

Notary Public

Registration No. _____

INSTITUTE FOR ADVANCED LEARNING AND RESEARCH, a political subdivision of the Commonwealth of Virginia

By: _____
Title: _____

COMMONWEALTH OF VIRGINIA, AT LARGE
CITY/COUNTY OF _____, to-wit:

The foregoing Addendum to Lease Agreement was acknowledged before me by _____ acting in his/her capacity as _____ of the Institute for Advanced Learning and Research, a political subdivision of the Commonwealth of Virginia, this ____ day of _____ 2013.

My commission expires: _____.

Notary Public

Registration No. _____

Danville-Pittsylvania Regional Industrial Facility Authority

Executive Summary

Agenda Item No.:	6-A
Meeting Date:	07/08/2013
Subject:	Consideration of proposal for additional Joint Permit Application assistance and consultation
From:	Rick Drazenovich, Public Works Director

SUMMARY

In May, the Danville-Pittsylvania Regional Industrial Facility Authority (RIFA) received a response to the Berry Hill Mega Park Joint Permit Application (JPA) that was prepared by Dewberry and submitted October 17, 2012. Their responses led us to believe that the U. S. Army Corps of Engineers will ultimately deny the application based on the lack of an identified end user for the project. In an effort to modify the permit to address this concern, staff is recommending approval of the attached proposal for professional services from Wetland Studies and Solutions, Inc. (WSSI).

BACKGROUND

The Corps has indicated that the lack of a tenant that actually intends to build on the site limits their ability to complete the necessary assessment for the Least Environmentally Damaging Practicable Alternative (LEDPA). A letter of intent from a potential user for each pad site may be required by the Corps to evaluate the permit and authorize impacts. It will be necessary for us to modify our permit application to overcome the end user/LEPDA concerns from the Corps.

We have solicited a proposal from Wetland Studies and Solutions, Inc. (WSSI) to assist us in modifying our permit application and guiding the team through the negotiations with the Corps, EPA, DEQ, and other regulatory agencies.

A copy of WSSI's professional services proposal is attached for review.

This request for professional services to modify the JPA proposal is only the first of an ongoing permitting process, which has become more and more complex and costly, as a result of the enforcement agencies interpretation of federal requirements. Other costs will include consultant fees for Historical Archeological Section 106 Reviews, additional compensation to Dewberry for additional wetlands and stream confirmations, and additional work required to respond to the Corps May 3rd comments regarding LEPDA.

RECOMMENDATION

It is recommended that the RIFA Board approve the professional services agreement dated June 13, 2013, as proposed by Wetlands Studies and Solutions, Inc.

ATTACHMENTS

1. Wetland Studies and Solutions, Inc. cover letter
2. Wetland Studies and Solutions, Inc. professional services proposal June 13, 2013
3. Army Corps of Engineer's response letter dated May 3, 2013 with respect to the Berry Hill Mega Park Joint Permit Application



June 13, 2013

Via email: kingjc@ci.danville.va.us

Mr. Richard Drazenovich, PE
Regional Industrial Facility Authority (RIFA)
427 Patton Street
Danville, Virginia 24543

Re: Berry Hill Mega Park Joint Permit Application Assistance and Clean Water Act
Section 404/401 and Virginia Water Protection Permit Program Consultation

Dear Rick,

In follow-up to our June 12, 2013 meeting, Wetland Studies and Solutions, Inc. (WSSI) is pleased to present this proposal to assist you with obtaining the requested Individual Permits from the U.S. Army Corps of Engineers (COE) and Virginia Department of Environmental Quality (DEQ) for impacts to Waters of the U.S. (WOUS) associated with the construction of the Berry Hill Mega Park project.

We hope to work with you on this project and have enclosed a copy of our corporate brochure to better acquaint you with WSSI. We have grown from a 1-person firm in 1991 to our current level of 85 full time employees. This growth has occurred through the addition of services which enable us to complete any task related to Clean Water Act permitting and permit compliance. The sole focus of our entire company is dedicated to obtaining Clean Water Act permits and related approvals including conducting the supporting environmental, water resource, and cultural resource studies and investigations - this work is our business.

Stepping into a project when the Clean Water Act permitting process is already in progress is relatively unusual; however, we've done this successfully for a number of projects. For example, the Dulles International Airport 4th Runway Expansion project was stalled for three years, despite the efforts of three major engineering firms. We were engaged to facilitate the approval, work with these firms, and obtain the requested permits from the COE and DEQ. Our Client and point of contact for that project is Naomi Klaus, Metropolitan Washington Airports Authority's Assistant General Counsel. If you'd like to discuss the project with her in more detail her phone number is (703) 417-8620 and her email address is: Naomi.Klaus@MWAA.com.

We are proposing to use our 2013 public sector rates approved by Fairfax County Department of Public Works and Environmental Services (DPWES). If you have any questions about our work for Fairfax County, please contact James Patteson, Director of Fairfax County DPWES (703-324-1716; James.Patteson@fairfaxcounty.gov)¹.

¹ Please note that Mr. Patteson is currently on vacation and will be returning on June 24, 2013.

We appreciate the opportunity to provide you with this proposal and look forward to the opportunity to present our experience and approach to the work in person. If you have any questions regarding this material, please do not hesitate to contact me (703-679-5602; mrolband@wetlandstudies.com) or Amy Connelly, our business development manager (703-679-5638; aconnelly@wetlandstudies.com).

Sincerely,

WETLAND STUDIES AND SOLUTIONS, INC.



Michael S. Rolband, PE, PWS, PWD, LEED® AP
President

Enclosures (Proposal and corporate brochure)

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PROFESSIONAL SERVICES AGREEMENT

CLIENT: Regional Industrial Facility Authority (RIFA) DATE: June 13, 2013
ADDRESS: 427 Patton Street VIA E-MAIL: drazeri@ci.danville.va.us
Danville, VA 24543 PROJECT NAME: Berry Hill Mega Park
ATTENTION: Mr. Richard Drazenovich, PE WSSI PROPOSAL #: P9016

We truly enjoyed meeting your team yesterday, and look forward to the opportunity to work with RIFA to bring economic opportunity to your area. To start the process we discussed, Wetland Studies and Solutions Inc. (WSSI) will provide professional services in accordance with the scope of work outlined below.

SCOPE AND FEE: All tasks are hourly per attachment A, not to exceed (HNTE) the stated amount without written permission

Task A – Review the Information and Agency Responses HNTE \$7,121

WSSI staff will review the Berry Hill Mega Park Lots 3, 4, 5 & Railway Joint Permit Application (JPA) that was prepared by Dewberry and dated October 17, 2012, the Mega Industrial Park Certification Program - Minimum Criteria and Items Required for Certification (unless you are not pursuing), existing cultural resource reports, and Agency responses.

Task B – Kickoff Meeting HNTE \$6,297

WSSI will meet all parties involved in the City of Danville such as the City Manager, the City Director of Economic Development, the City Director of Public Works, Dewberry, and Pittsylvania County staff to discuss the project.

Task C – Post-Application Meeting HNTE \$10,711

WSSI will attend the pending on-site post-application meeting with the U.S. Army Corps of Engineers (COE), the Virginia Department of Environmental Quality (DEQ), the U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS) and Virginia Department of Historic Resources (VDHR) in the Danville Area (date to be determined).

Task D – Discussions with COE, EPA and DEQ Staff HNTE \$10,918

WSSI will talk with regulatory staff at several levels to gain “unfiltered” opinions of how to achieve a permissible plan, such as:

- COE: Chief of Regulatory – Headquarters, Chief of Regulatory – Norfolk District, Section Chief, Permit Manager
DEQ: Director, Regional Director, Permit Writer
EPA: Director, Wetlands Division, Headquarters, Permit Writer – Region 3

The focus of these discussions will be on:

- 1. Commonwealth Decision Effect (the nearby competing Mega Park)
2. Speculative Development versus Market Study based design plans
3. Scope of Off-Site Alternative analysis
4. EIS Request by EPA
5. Secondary Impacts

We will summarize our findings in a report to help us jointly determine what direction is needed for future tasks. This is a Go/No-Go/Change Direction decision point.

Task E – Discussions with the DHR/SHPO

HNTE \$7,577

WSSI will consult with the appropriate personnel at the Virginia Department of Historic Resources (DHR)/State Historic Preservation Office (SHPO) office in Richmond, Virginia to determine the scope of additional cultural resources investigations, to preliminarily discuss the scope and nature of the recommended Programmatic Agreement (PA), and to discuss potential consulting parties to this agreement. WSSI will summarize our findings in a report with recommendations. This report shall also include our best professional judgment regarding which sites will most likely require a Phase III investigation since the Phase II archeological investigation has not been completed. We do not recommend the Phase II work commence until the Agencies and RIFA have finished the project charrette process and found the general land plan concept that will be acceptable. The final scope recommended will vary based upon the desired permit plan.

Task F – Economic Development Discussions

HNTE \$9,107

Meet with RIFA staff and state/local economic development staff to see the site and competing sites and discuss the framework of the scope needed to develop a market analysis for this project that determines:

1. Target Market – user type and development criteria
2. Demand of Target Users
3. Supply of Sites
 - a. existing
 - b. proposed
 - c. reuse
4. Employment Base versus Job Creation Proposed (numbers and skills)

This meeting would also include discussions of RIFA's evolving thoughts on these topics to use in initial land plan refinements and to determine who will prepare the market analysis. WSSI will also review and comment on the resulting market study relative to the Purpose and Need and land plan requirements.

Task G – Land Plan Design Charrette – Internal

HNTE \$17,324

Based on the results of Task F – RIFA, WSSI, Dewberry's site civil staff and their land planning department or a land planning firm would conduct a one day charrette to develop a rough cut sketch plan that produces three plans:

1. Avoidance Plan showing:
 - a. Only road and sewer crossings of Waters of the U.S. (WOUS)
 - b. 200 ft buffer on major streams, 100 ft on perennial, 50 ft on intermittent, 25 ft on ephemeral
 - c. 50 ft around Historic Resources expected to require a Phase III
2. Permittable Plan – The one we will all debate as to what is reasonable
3. Current Plan with Development Concept

The geographic scope of this plan will be determined by RIFA – but likely will be limited to a new "Lot 1" that includes all needed infrastructure and is a "single and complete project" that has independent utility which RIFA has funding to develop. The primary purpose of this is to develop a base to use in the Agency Charrette and to develop a general plan direction goal.

Task H – Purpose and Need

HNTE \$3,149

Based on Market Study results, work with RIFA to craft a Purpose and Need statement and coordinate its review with a mutually acceptable legal advisor.

Task I – Agency/RIFA Project Charrette

HNTE \$33,110

Prepare for and attend a two day Project Design charrette meeting with RIFA and Agency staff (maybe not in Danville based on Agency travel) to determine:

1. Purpose and Need
2. Off-Site Alternatives Scope
3. Market Study
4. Aquatic Resource Functions and Values On-Site (i.e., "A," "B," and "C" value) and Appropriate Buffers (e.g. 25', 50', 100', 200')
5. Archeological/Historic Constraints
6. Plan with only Road/Utility Crossings

7. Permittable Plan based on # 3, 4 and 5 based on "Practicality" criteria – find the Least Environmentally Damaging Practicable Alternative (LEDPA)
8. Determining a Scope for a Revised JPA acceptable to agencies
9. Compensation Requirements (Mitigation Bank, In-lieu Fee Mitigation, Permitte Responsible Mitigation)

Task J – Final JPA Scope

HNTE \$8,283

Develop a scope of work for preparing a Final JPA to include land planning, engineering, legal, archeology and regulatory. Based on this work, we would then provide a proposal to implement the development of a revised JPA that is permittable – and achieve your end goal to obtain the requested permits.

Subtotal \$113,597

Task K - Contingency

Estimate \$22,719

20% of Subtotal – WSSI will notify RIFA when moving funds from this Task to other Tasks.

Task Z – Reimbursable Estimate

Estimate \$5,680

5% of Subtotal

**Total Not to Exceed Budget: \$141,996
(without written permission)**

Our fee for services will be invoiced as outlined above Plus Reimbursables (with 20 percent Administrative Fee) and using the enclosed Attachment A - Rate Schedule and Attachment B - Terms and Conditions. The billing rates provided are the same rates in our contract with Fairfax County Department of Public Works and Environmental Services – who is our largest client (\$2.5 million).

Attachment C provides the time estimates and rates we used to develop the HNTE cost estimates provided herein. We reserve the right to use different staff, with their appropriate billing rates, as necessary to accomplish the work.

If this professional services agreement outlines your understanding of the scope of services, please sign below and return a copy to our office.

Thank you for the opportunity to present this proposal.

Sincerely,
Wetland Studies and Solutions, Inc.



Michael S. Rolband, PE, PWS, PWD
President

CLIENT ACCEPTANCE:

Accepted by: _____

Date: _____

Enclosures: Attachments A, B, and C

Wetland Studies and Solutions, Inc.
City of Danville-Mega Park
Man Hours and Fee Calculation
6/13/2013
Attachment C

Task	President	VPII	Principal I	Cons. V	Cons. IV	Cons. II	Admin	Total	
	\$270.00	\$150.51	\$93.93	\$133.20	\$123.57	\$101.31	\$69.24	Hrs	\$
A - Information Review	8	8	16		16		4	52	\$7,121
B - Kickoff Meeting	16				16			32	\$6,297
C - Post-App Meeting	24				32		4	60	\$10,711
D - Discussions with Agencies	30				20		5	55	\$10,918
E - Discussions with DHR/SHPO		24	40				3	67	\$7,577
F - Economic Development Discussions	20				30			50	\$9,107
G - Land Plan Design Charrette-Internal	16	8	32	16	32	24	4	132	\$17,324
H - Purpose and Need	8				8			16	\$3,149
I - Agency/RIPA Project Charrette	40	8	40	40	60	40	8	236	\$33,110
J - Final JPA Scope	16	4	8		20		2	50	\$8,283
Subtotal	178	52	136	56	234	64	30	750	\$113,597
K - Contingency (20% of subtotal)									\$22,719
Reimbursable Estimate (5% of subtotal)									\$5,680
Total Not to Exceed									\$141,996

Attachment A
June 2013

The following is a listing of the Wetland Studies and Solutions, Inc. (WSSI) rates for professional and reprographic services. These rates will remain in effect through December 31, 2013, after which time they may be adjusted to reflect our current labor and overhead costs.

PROFESSIONAL SERVICES

President	\$270.00	Consultant IV	\$123.57
Executive Vice President	\$234.99	Consultant III	\$119.76
Senior Vice President	\$216.84	Consultant II	\$101.31
Vice President III	\$197.19	Consultant I	\$88.83
Vice President II	\$150.51	Technician III	\$76.77
Vice President I	\$135.33	Technician II	\$66.15
Principal III	\$178.05	Technician I	\$52.65
Principal II	N/A	Assistant	\$44.25
Principal I	\$93.93	Admin. I	\$82.11
Consultant V	\$133.20	Admin. II	\$69.24

TYPICAL REIMBURSABLE COSTS

In-house Reprographic Services

	Rate/Square Foot		Rate/Sheet
Xerox large document bond	\$0.25	B&W Xerox (8.5x11)	\$0.10
Paper Cad plots (B&W)	\$0.35	Color Xerox (8.5x11)	\$0.50
Paper Cad plots (Color)	\$0.75	Clear Acetate (8.5x11)	\$1.00
Mylar Cad plots	\$2.00		
Clear Acetate Cad plots	\$3.00	Standard Report Supplies minimum	
Color Cad plots – Photo quality	\$4.00		\$6.00/Report

GIS and CAD system charges are included in billable rates. Reimbursable expenses shall include the following:

- Local automobile travel @ 56.5 cents per mile
- All Terrain Vehicle use @ \$8 per hour (excluding operator – mobilization included in hourly rate)
- Tractor @ \$35 per hour (excluding operator – mobilization included in hourly rate)
- Morooka @ \$35 per hour (excluding operator – mobilization included in hourly rate)
- Buggy @ \$10 per hour (excluding operator – mobilization included in hourly rate)
- 2200 Bobcat Utility Vehicle @ \$12 per hour (excluding operator – mobilization included in hourly rate)
- T-300 Bobcat @ \$45 per hour; with backhoe \$55 per hour (excluding operator – mobilization included in hourly rate)
- E60 Bobcat Trackhoe @ \$55 per hour (excluding operator – mobilization included in hourly rate)
- 17' Jon boat @ \$10 per hour (excluding operator – mobilization included in hourly rate)
- 20' boat-115 hp @ \$50 per hour (excluding operator – mobilization included in hourly rate)
- Mower @ \$5 per hour (excluding operator – mobilization included in hourly rate)
- Leica Robotic Total Station @ \$30 per hour (excluding operator – mobilization included in hourly rate)

The following expenses shall be charged at cost plus the administrative processing fee percentage stated in the proposal or contract:

- Permit and review fees, public notice advertisements
- Air travel, rental vehicles, lodging and meals for sites outside the Washington/Baltimore Metropolitan Area.
- Photocopying or reproduction of drawings or documents by third party vendor as requested by the Owner or other consultants.
- Postage, long distance telephone charges, and expedited delivery services requested by the Owner or consultants.
- Artifact Archival Storage Fees
- Third party consulting services, as authorized by Client, for services such as surveying, archeology, endangered species searches, geotechnical surveys, septic field-testing, permeability tests, etc.

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Attachment B

WETLAND STUDIES AND SOLUTIONS, INC.

GENERAL CONDITIONS OF SERVICE

These General Conditions of Service are incorporated by reference into the foregoing Proposal and shall be part of the Agreement under which services are to be performed by Wetland Studies and Solutions, Inc. (WSSI) for Client. "Agreement" as used herein shall mean the Proposal, these General Conditions, Supplemental Conditions (if any) and the Fee Schedule.

SECTION 1: SCOPE OF WORK

- a. The scope of Work shall include all services provided by WSSI, in its discretion, which are reasonably necessary and appropriate for the effective and prompt fulfillment of WSSI's obligations under the Agreement, it being expressly provided that all such services provided shall be invoiced and paid for in accordance with Section 3 below.
- b. It is understood that the Scope of Work and time schedule defined in the Proposal are based on the information provided by Client. If this information is incomplete or inaccurate, or if unexpected conditions are discovered, the Scope of Work may change, even as the work is in progress. If the Client requests additional services or when a change in the Scope of Work or time schedule is necessary, a written amendment to the Agreement shall be executed by the Client and WSSI as soon as is practicable and consent to such amendments shall not be unreasonably withheld or delayed.

SECTION 2: STANDARD OF CARE

Services performed by WSSI under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the Engineering profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document or otherwise.

SECTION 3: RELIANCE UPON CLIENT PROVIDED INFORMATION

- a. WSSI is not required to check or verify client-provided information or the technical adequacy or compliance of any portion of the project designed by the client's consultants.
- b. WSSI assumes no responsibility for the accuracy of information provided by the client or of design information provided by others, excluding WSSI's subconsultants.
- c. The client agrees to defend and indemnify WSSI for any delays, costs, losses, or damages caused by false, inaccurate, or non-compliant information provided by the client or the client's consultants.

SECTION 4: BILLINGS AND PAYMENTS

- a. Payments shall not be subject to a "Pay when Paid" condition between the Client and any other third party. WSSI invoices shall be due and payable upon receipt.
- b. Billings will be based on either the fee stated in the Proposal, or if not a fixed fee, on actual hours expended at the standard rates shown on Attachment A of this Proposal, plus travel costs and other reasonable expenses as described on Attachment A. Client recognizes that time is of the essence with respect of payment of WSSI's invoices, and that timely payment is a material part of the consideration of this Agreement. Invoices will be submitted by WSSI from time to time, and shall be due and payable upon receipt.
- c. Proposals using hourly rates shall utilize the rates provided on Attachment A. Said rates may be revised from time to time. These rates for contracts will remain in effect for the calendar year in which the proposal was authorized. At the beginning of the following calendar year, the hourly rates shall be updated to the revised rates as published by WSSI.
- d. Client shall pay an additional charge of one-and-one-half (1.5) percent (or the maximum percentage allowed by law, whichever is lower) of the invoiced amount per month for any payment received by WSSI more than thirty (30) calendar days from the date of the invoice.
- e. Client shall pay WSSI, without limitation, all costs and expenses, including but not limited to 25% attorney's fee or \$500, whichever is more, incurred by WSSI in connection with the collection and enforcement of Client's obligation to pay amounts due hereunder.

Revised December 2012

SECTION 5: RIGHT OF ENTRY

- a. Client hereby grants WSSI and its subcontractors or agents the right to enter from time to time the property owned by Client and/or other(s) in order for WSSI to fulfill the scope of services included in the Agreement. Client understands that use of exploration equipment may cause some reasonable disturbance or damage to the Property, the correction of which is not part of this Agreement or any obligation of WSSI. Client also understands that the discovery of wetland areas or uncertain hazardous conditions and/or taking preventive measures relative to these conditions may result in a reduction of the Property's value. Accordingly, Client waives any claim against WSSI and its subcontractors or agents, and agrees to defend, indemnify and hold WSSI harmless from any claim or liability for injury or loss allegedly arising from procedures associated with surface and subsurface exploration activities or discovery of wetlands or of hazardous materials or suspected hazardous materials. In addition, Client agrees to hold harmless, indemnify and compensate WSSI for any time spent or expenses incurred by WSSI in defense of any such claim with compensation to be based upon WSSI's prevailing fee schedule and expense reimbursement policy.
- b. WSSI shall not be liable for damage or injury from damage to subterranean structures (pipes, tanks, cables, or other utilities, etc.) which are not called to WSSI's attention in writing and correctly shown on the diagram(s) furnished by Client to WSSI.
- c. Any exploration, testing, surveys and analysis associated with the work will be performed by WSSI for the Client's sole use to fulfill the purpose of this Agreement and WSSI is not responsible for interpretation by others of the information developed. The Client recognizes that surface and subsurface conditions on the entire Project site may vary from those encountered in selected sample borings, delineations, surveys or explorations and the information and recommendations developed by WSSI are based solely on the information available from such borings, delineations, surveys and explorations.

SECTION 6: SAMPLES

- a. Soil, rock, water, vegetation, and/or other samples obtained (if any) from the Project site will be preserved by WSSI for no longer than sixty (60) calendar days after the issuance document that includes that data obtained from them, unless other arrangements are mutually agreed upon in writing. Should any of these samples be contaminated by hazardous substances or suspected hazardous substances, it is Client's responsibility to select and arrange for lawful disposal procedures, that is, procedures which encompass removing the contaminated samples from WSSI's custody and transporting them to a disposal site. Client is advised that, in all cases, prudence and good judgment should be applied in selecting and arranging for lawful disposal procedures.
- b. Cultural Resource Artifacts – After processing, artifacts will be returned to the client or placed on repository with the county or the Virginia Department of Historic Resources. Some local governments accept the artifacts without charge, however, the VDHR and Prince William County have a one-time fee of \$200 per half-sized box (15"x6"x10") and \$350 per standard box (15"x12½"x10"). The repository fee is not included in the direct costs of this proposal and will be treated as a reimbursable expense. WSSI shall not retain the artifacts for more than sixty (60) days after the submission of the report unless other arrangements are mutually agreed upon in writing.

SECTION 7: REPORTS AND OWNERSHIP OF DOCUMENTS

WSSI shall furnish three (3) copies of each report to Client. Additional copies shall be furnished at the rates specified in the fee schedule (employee time plus reimbursables). With the exception of the physical copies of reports provided by WSSI to Client, all documents, including reports, photographs, permits applications, plans, original boring logs, field data, field notes, laboratory test data, calculations and estimates are and remain the property of WSSI. Client agrees that all reports and other work furnished to the Client not paid for in full will be returned to WSSI upon demand and will not be used for design, construction, permits or licensing.

SECTION 8: CLIENT DISCLOSURES

- a. The Client shall notify WSSI of any known or suspected hazardous substances which are or may be related to the services to be provided.
- b. Following any disclosure as set forth in the preceding paragraph, or if any hazardous substances are discovered or reasonably suspected by WSSI after its services are undertaken, WSSI may, at its discretion, discontinue its services.

SECTION 9: LIMITATION OF PROFESSIONAL LIABILITY

- a. Client agrees to limit WSSI's liability to Client and all construction contractors arising from WSSI's professional acts, errors or omissions in performing this Agreement, such that the total aggregate liability of WSSI to all those named shall not exceed the total fee for the services rendered on this Project. Client further agrees to require of the Client's Consultants (Civil Engineer, Architect, Attorney, etc.), General Contractor and their subcontractors an identical and cumulative limitation of WSSI's liability for damages that may be suffered by the contractor or the subcontractors arising from professional acts, errors or omissions of WSSI.
- b. Documents, including but not limited to, technical reports, original boring logs, field data, field notes, laboratory test data, calculations, and estimates furnished to the Client or its agents pursuant to this Agreement are not intended or represented to be suitable for reuse by the Client or others on extensions of the Project or on any other project. Any reuse without WSSI's

written consent will be at Client's sole risk and without liability to WSSI or to WSSI's contractor(s) and Client shall indemnify and hold harmless WSSI and WSSI's contractor(s) from all claims, damages, losses and expenses including attorney's fees arising out of or resulting therefrom.

- c. Under no circumstances shall WSSI be liable for extra work or other consequences due to changed conditions or for costs related to failure of the construction contractor or materialmen or service providers to install work in accordance with the plans and specifications.

SECTION 10: LIABILITY INSURANCE

WSSI represents that it and its agents, and consultants employed by it, are protected by Workers Compensation insurance and that WSSI has coverage under liability insurance policies which WSSI deems reasonable and adequate. WSSI shall furnish certificates of insurance upon request. WSSI shall not be responsible for bodily injury and property damage or losses arising directly or indirectly, in whole or in part, from acts by the Client, its employees, agents, staff, consultants or subcontractors employed by it or by any other person or combination of persons. The Client agrees to limit the liability of WSSI to the limits of WSSI's insurance. The Client is responsible for requesting specific inclusions or limits of coverage that are not present in WSSI insurance, the cost of such inclusion or coverage increases if available, to be at the sole cost and expense of the Client.

SECTION 11: ARBITRATION OF DISPUTES

At the sole option of WSSI, claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement shall be decided through arbitration, as adopted and described by the then most current rules of the American Arbitration Association.

SECTION 12: TERMINATION

Client or WSSI may terminate this Agreement for breach of this Agreement, or for any other reasons which may arise. In the event of termination, the party effecting termination shall so notify the other party, and termination will become effective fourteen (14) calendar days after receipt of the termination notice. Irrespective of which party shall effect termination or the cause therefore, WSSI shall promptly render to Client a final invoice and Client shall immediately remunerate WSSI for services rendered and costs incurred, in accordance with WSSI's prevailing fee schedule and expense reimbursement policy. Services shall include those rendered up to the time of termination, as well as those associated with termination itself, such as demobilizing, modifying schedules and reassigning personnel. Upon such termination, Client and WSSI shall deliver to each other all reports and documents pertaining to services performed up to termination.

SECTION 13: GENERAL PROVISIONS

- a. Any provision of this Agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.
- b. The titles used in this Agreement are for general reference only and are not part of the Agreement. Parties to this Agreement are advised to read each provision and rely on the guidance of legal counsel as necessary to help assure a complete understanding of all provisions and the obligations imposed through acceptance.
- c. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the Client and WSSI shall survive the completion of services and the termination of this Agreement.
- d. Neither the Client nor WSSI may delegate, assign, sublet or transfer its duties, responsibilities or interests in this Agreement without the written consent of the other party.
- e. This Agreement shall be interpreted according to the laws of Virginia.



DEPARTMENT OF THE ARMY
NORFOLK DISTRICT, CORPS OF ENGINEERS
FORT NORFOLK, 803 FRONT STREET
NORFOLK, VIRGINIA 23510-1096

May 3, 2013

REPLY TO
ATTENTION OF: CENOA-WR-RW
Western Virginia Regulatory Section
NAO-2010-0423 (Dan River)

Mr. Richard Drazenovich
Regional Industrial Facility Authority
998 South Boston Road
Danville, Virginia 24541

Dear Mr. Drazenovich:

I am writing in reference to your application for a Department of the Army individual permit to develop approximately 1,370 acres of a 3,500 acre parcel known as the Berry Hill Mega Park in Pittsylvania County, Virginia. All comments received as a result of the Public Notice are included as attachments to this letter. Additional information required to evaluate this proposal is identified below.

Purpose and Need

1. The basic and overall purpose of the project is to provide predevelopment infrastructure, transportation, and pad site improvements of a size necessary to attract industrial users capable of providing transformational, substantial positive economic impact to the Danville/Pittsylvania County area. The purpose of the project is not to obtain McCallum Sweeney's Mega Park certification. Please explain how do these objectives differ? How are they the same? Can development of one of either Lot 4 or Lot 5 achieve the project purpose (to provide predevelopment infrastructure, transportation, and pad site improvements of a size necessary to attract industrial users capable of providing transformational, substantial positive economic impact to the Danville/Pittsylvania County area) without the development of Lot 3? If so, please consider removing Lot 3 from current consideration until such time as an industry user can be identified.
2. Provide examples of industries that would be targeted to build in Berry Hill. What would the general space requirements, building layouts, infrastructure needs, and attendant features be for these industries? How can the impacts to streams and wetlands be reduced while developing the appropriate size pad to accommodate these industry needs and meet the project purpose?

Offsite Alternatives Analysis

We do not have sufficient information to determine that the Berry Hill property is the least environmentally damaging practicable alternative (LEDPA). Please provide the following information in order to allow us to continue to evaluate your proposal.

1. Provide the criteria used to evaluate the offsite alternatives. The criteria should be specific to include size, location, environmental resources to be impacted, infrastructure needs and the ability of the sites to meet those needs, etc.

2. Provide a review of existing properties within Pittsylvania County/City of Danville that looks at the ability of these properties to meet the project purpose. The sites considered should include new and existing (to include vacated shell buildings) within Pittsylvania County/City of Danville.
3. Provide a detailed analysis of the ability or inability of existing industrial parks within Pittsylvania County/City of Danville that can provide the same regional employment opportunities and capital expenditures and that may utilize a smaller development footprint.
4. Since your project purpose is to provide predevelopment infrastructure, transportation, and pad site improvements of a size necessary to attract industrial users capable of providing transformational, substantial positive economic impact to the Danville/Pittsylvania County area, please provide a detailed explanation of why those existing industrial parks identified in the Site Selection Matrix cannot assist you in meeting your project purpose. This should not include a discussion of the Mega Park Certification as that is not necessary to meet your stated project purpose. It should include identification of industries that do not need a 230 acre pad site on which to develop in order to assist you in meeting your stated project purpose.
5. Provide supporting documentation that industrial users are “expecting the sites to be donated as part of the incentive package” thus negating the necessity for RIFA to consider privately held properties in their offsite alternatives analysis.
6. Lot 5 is proposed to have a 77 acres pad site graded on a 118 acres parcel, is it unreasonable to expect that a user for this lot could locate in Cane Creek Center or one of the other existing industrial parks? Why or why not?
7. The Site Selection Matrix provided in the JPA does not provide an evaluation of impacts to wetlands and streams associated with each alternative site.

Onsite Alternatives Analysis

Once we are satisfied that the site with the least impacts has been selected, the 404(b)(1) guidelines require that an onsite alternatives analysis be undertaken to locate development in such a way to further minimize impacts on the selected site. This step requires the applicant demonstrate that there is no lesser environmentally damaging, practicable site plan than the one proposed. For this project, meeting this requirement is complicated by the fact that there is no identified user or even specific industry proposed for the site. Without knowing the specific requirements of a user, it is not clear how the applicant can demonstrate that site plans involving less fill in waters of the US are not practicable. The applicant does not intend to construct buildings or any other facilities since the ultimate site tenant would have to be free to design the facility to its own specifications. Corps regulations at 325.1(d)(5) require, if an activity includes construction of a filled area, the project description must include the use of and specific structures to be erected on the fill. While there is an element of doubt in most permit applications, the lack of a tenant that actually intends to build on the site limits the ability of the Corps to complete the necessary 404(b)(1) Guidelines assessment. Only the final tenant of the site can tailor the project design to its specific needs and, conversely, identify potential further areas of avoidance and minimization of aquatic resources. Your plans for the proposed 77 acres pad, 230 acres pad, and the 400 acres pad do not show any structures to be erected on the fill or the proposed use of the filled area. We can only issue a permit for the LEDPA. Therefore, an onsite alternatives analysis will have to be undertaken before impacts are

allowed to commence on the site. Letters of intent from a potential user for each pad site proposed for development may be necessary in order to fully evaluate the proposal and authorize impacts.

It is not possible to indicate that all impacts to streams and wetlands were avoided to the maximum extent practicable if you have not provided detailed project design to include buildings, parking, roads, utilities, stormwater, loading docks etc. Please provide the following information:

1. In the letter from Caliji, they indicated they would need a 200 acre graded pad. Provide the onsite development plan for a typical Caliji facility to include building footprint, parking, loading docks, stormwater, etc. What type of industry is Caliji?
2. Provide a list of the types of industries that would be appropriate tenants for the Berry Hill Mega Park.
3. If it is determined that all pad sites are necessary to achieve the project purpose, discuss the need for each section of the development and provide a justification for the size of the proposed developed area. You should consider reducing the number of pad sites to the minimum necessary to achieve the project purpose.

Impacts

Upon identification of the LEDPA, provide the following information for that alternative:

1. Provide a detailed analysis of the direct and indirect impacts to the Dan River watershed as a result of the development of Berry Hill.
2. All stream channels that are isolated by the proposed pad site development should be counted as secondarily impacted and compensation should be provided.
3. Provide an analysis of the secondary impacts the increased impervious cover will have on McGuff and Trotters Creek. What steps are being taken to eliminate or reduce these impacts?
4. Will any upgrades to Berry Hill Road and/or other roads within the project vicinity be required in order to develop the Berry Hill Mega Park? At what point will these upgrades need to occur, after completion of so many square feet of industrial space, after the employment of a certain number of people, etc.? Will there be reasonably foreseeable impacts to waters of the US associated with these improvements?
5. Provide an analysis of directional drilling all utility crossings to avoid impacts to waters of the US.
6. Will any upgrades to existing electrical service be necessary? Will those upgrades result in impacts to waters of the US?
7. Will any impacts to waters of the US occur as a result of connections to the existing Transco pipeline?
8. Please identify the location and extent of any temporary impacts to water of the US.

Stormwater

1. Upon identification of a detailed development plan for the sites, provide a complete LID worksheet and discuss how LID can be used to reduce impacts (direct and indirect) to the aquatic environment.
2. Provide the % of the site that will be converted to impervious cover with Berry Hill Phase I.

3. Evaluate the potential to reduce secondary impacts to the downstream channel by modifying the release from SWM ponds to a 1 year 24 hour release.

Mitigation

1. Upon identification of the LEDPA we will evaluate the proposed compensatory mitigation.

Historic Properties

1. Provide a NRHP evaluation of for each architectural property identified in the Phase I cultural resources survey. Each property should be evaluated individually and cumulatively to determine if a NRHP rural historic district exists.
2. For all identified architectural resources more narrowly determine the date of the structure. The date should be defined to a ten year period on either side of a given year. This should be based on physical and documentary research. Revise all DSS architecture forms accordingly.
3. Provide a viewshed analysis for the Berry Hill property.
4. Provide NRHP recommendations for sites 44PY0326, 44PY0327, 44PY0331, 44PY0332, 44PY0333.
5. Provide a Phase II survey for all archeological sites identified in the Phase I as potentially eligible for listing to the NRHP if these resources are to be impacted as a result of development.
6. Provide an evaluation of each site recommended potentially eligible for listing for individual site eligibility and as part of a collection of historic period sites that are considered contributing archeological elements to the potential NRHP rural historic district.
7. Avoid impacts to the four historic cemeteries identified onsite to the maximum extent practicable. Consider providing a buffer around these cemeteries to further reduce impacts. If impacts are determined to be unavoidable, please provide justification for those unavoidable impacts.

General

1. The Virginia Department of Conservation and Recreation requested that you maintain a buffer along the Dan River to ensure the scenic qualities of the river to preserve its potential scenic river designation. Please consider their request.
2. Please provide a copy of the approved Tobacco Indemnification Grant/s and any conditions that are attached to these grants.
3. Provide a copy of the Berry Hill Mega Park Master Plan and the draft set of protective covenants identified as necessary in the McCallum Sweeney Certification Guidelines.
4. What is the status of the Mega Park certification from McCallum Sweeney? If the certification has not been obtained what are the outstanding issues? You indicate that the Mega Park Certification assures users that the park meets certain standards, isn't it possible to market the site as meeting these standards without the Mega Park Certification? What advantages will the applicant gain upon receipt of this certification? Can these same advantages be achieved through development of the site without the certification? Why or why not? What industries would be targeted to build in a certified

Mega Park? Is it practicable to expect any of these industries to come to Berry Hill as opposed to other already certified Mega Parks?

5. You indicate that other sites in Lynchburg, South Boston, Martinsville, and Reidsville, NC were reviewed to determine their acceptability for Mega Park Certification and none of these sites were determined to be acceptable candidates. Please provide the list of sites reviewed and a detailed analysis of why they were determined to be unacceptable for certification to include an analysis of impacts to streams and wetlands.
6. Please provide the NRCS soils maps for Phase I.
7. What are the requirements most often associated with large scale capital investment and employment projects? What types of industries are being targeted to provide that level of capital improvement and employment? What does the development footprint/site specific development needs for those industries look like? Are there industries that can provide the same level of capital investment and employment that utilize a smaller footprint? Please identify those industries and provide an offsite/onsite alternatives analysis of those industries and their usage of Berry Hill.

We are willing to work with you through the intricacies of this project and are available to meet in the future. If you have any questions, please contact Jeanne Richardson at 434.384.0182 or jeanne.c.richardson@usace.army.mil.

Sincerely,

Jeanne C. Richardson

Acting Chief, Northern Virginia Regulatory Section

Attachments:

DCR Comment Letter
VDHR Comment Letter
USFWS Comment Letter
EPA Comment Letters
Falling Springs Comment Email
Robert Sims Comment Letter
Triangle Brick Comment Letter
Preservation Virginia Danville Historical Society Comment Letter
The Association for the Study of Archeological Properties Comment Letter
Susan Stilwell Comment Letter
LID Worksheet

Danville-Pittsylvania Regional Industrial Facility Authority

Executive Summary

Agenda Item No.:	6-B and 6-C
Meeting Date:	07/08/2013
Subject:	RIFA Industrial Park Company Updates
From:	Jeremy Stratton, Director Danville Office of Economic Development

SUMMARY

Per the request of the Danville-Pittsylvania Regional Facility Authority, we are providing an update on the companies in the RIFA owned parks, and the timelines for meeting job creation and capital investment milestones to meet performance agreement requirements.

BACKGROUND

Cyber Park:

CBN Secure Technologies, Inc. entered into an agreement with RIFA on June 18, 2008 to create 15 jobs and invest \$5,000,000 within a thirty month period in return for 7.44 acres of land in Cyber Park valued at \$50,660. There were no other cash incentives offered for the project other than the customary Enterprise Zone Job Creation and Machinery and Tool Grants.

CBN Secure Technologies, Inc. has done very well and has expanded twice since the first project. On October 14, 2010, the company signed a performance agreement with Pittsylvania County and the Tobacco Commission agreeing to create 25 more jobs and invest \$1,100,000 in return for a \$75,000 grant. The job creation and capital investment requirement have been met already before the October 14, 2013 deadline. There were no other cash incentives offered for the project other than the customary Enterprise Zone Job Creation and Machinery and Tool Grants.

The Danville-Pittsylvania Regional Facility Authority entered into a performance agreement with CBN Secure Technologies, Inc. on November 12, 2012 to provide a \$150,000 grant to assist the company with grading their property for a physical plant expansion. The company has agreed to invest \$8,200,000 and create 25 new jobs for a total job census of 65 jobs by September 30, 2014. This expansion project received no Tobacco Commission funds.

EIT entered into a performance agreement with RIFA on February 2011 to receive 16.648 acres of land valued at \$174,900 at the northwest corner of Slayton Avenue and Stinson Drive. In the agreement, the company stated that they would create 50 new jobs and have a capital investment of \$5,000,000 by February 7, 2011. EIT promptly

provides updated numbers to us every six months. In the last statement dated 1/1/2013, the company indicated that they have 31 jobs at the Slayton Avenue facility and 26 jobs at the Riverview facility. The total capital investment to date is \$4,947,091.28. There are no Tobacco Commission grants for this project.

Cane Creek:

Swedwood has a new plant manager by the name of Ildiko Furjesova. She has indicated via email that Swedwood is interested in using rail starting in 2015 potentially. Swedwood employs approximately 370 people and has made a capital investment of over \$90 million.

The original Memorandum of Agreement stated a goal of at least 271 jobs and a capital investment of \$85,500,000. Since Swedwood has met the phase I goal, all of the requirements for the local, state, and Tobacco Commission grants have been satisfied. The performance agreement lists further incentives for Phases I, III, and IV between 2009 and 2015. To date, Swedwood has not indicated that they will explore an expansion beyond Phase I.

Swedwood is in year 7 of a ground lease with RIFA for the 94-acre lot 7A in Cane Creek. The ground lease is 10 years in total with the option for Swedwood to purchase the lot for a \$1 by October 20, 2016 so long as the company has maintained its phase I capital investment and job creation levels. If Swedwood has not maintained at least 271 jobs and \$85,500,000 capital investment, they can buy the property for \$25,000 per acre. If Swedwood undertakes the expansion phases of their project as agreed in the Memorandum of Agreement, the company can lease Lots 7B and 7C in Cane Creek totaling 114 acres. Additionally, Swedwood has the right of first refusal on Lot 6 (68.8 acres), which is south of Tom Forks Road.

Yorktowne Cabinetry (now Elkay) entered into a local performance agreement with Pittsylvania County and the City of Danville on April 12, 2005 with a thirty month goal to create 431 jobs and invest \$19,200,000. In return, the City and County offered cash grants and property totaling \$3,065,000. The incentive package was split 50% on the capital investment goal and 50% on the job creation goal. Due to a collapse in the housing market in 2007 and 2008, Elkay had a rough time selling their cabinets for new homes and condos, which resulted in much lower employment numbers. The company invested over \$20 million, but only created 87 jobs. Pittsylvania County and the City of Danville administrative staff met with the company and came up with a plan for re-payment of the job creation part of the incentive agreement on September 28, 2009.

Elkay received a \$1,000,000 TROF Grant and a \$1,800,000 Governor's Opportunity Fund Grant. The company met with state representatives for the GOF and TROF, and has developed a re-payment plan with them directly.

Elkay has agreed to create 380 jobs by September 30, 2016. Since this is a reduction from the 431 job goal, the company has repaid a proportionate amount totaling \$181,339.68 between 2009 and 2010. Between 2010 and 2016, Elkay has agreed to meet certain job thresholds shown in the table below, or has to make an annual payment totaling \$208,363.26 to RIFA.

Target Date	Cumulative Full-Time Jobs Created and Maintained (“Job Target”)	Repayment Amount (if Job Target is Not Timely Met)	Due Date of the Repayment Amount
September 30, 2012	150	\$208,363.26	October 31, 2012
September 30, 2013	200	\$208,363.26	October 31, 2013
September 30, 2014	260	\$208,363.26	October 31, 2014
September 30, 2015	320	\$208,363.26	October 31, 2015
September 30, 2016	380	\$208,363.26	October 31, 2016

Elkay has met the job goal of 150 in 2012. This is in large part to Elkay closing down a facility in Pennsylvania and moving it to Danville. According to Steve Ostasiewski, the Human Resources Director at Elkay, the current headcount is 248.

U.S. Green Energy entered into a performance agreement for a \$1,600,000 grant with the City of Danville and the Tobacco Commission on September 9, 2010 with the promise of 372 jobs and a capital investment of \$30,000,000 by September 9, 2013. On November 22, 2010, U.S. Green Energy entered into a performance agreement with RIFA for the same capital investment and job creation numbers between January 1, 2011 and January 1, 2014 in exchange for a 59.18 acre lot in Cane Creek and a \$400,000 grant paid over a five-year period and split between the City and County at \$40,000 each per year. To date, only the first \$80,000 payment has been made to the company. Approximately \$5,000 worth of Enterprise Zone Job Creation Grant funds were paid out to the Dan River Business Development Center for their office space during the construction phase of the project.

The Danville Industrial Development Authority made a \$500,000, 4%, 60-month loan to U.S. Green Energy on April 12, 2012 to help the company with the construction of their Cane Creek facility, which was actually activated on July 1, 2012. Since the loan became activated, U.S. Green Energy has made each of the 11 payments of \$9,208.26 on time and without interruption.

U.S. Green Energy has built a 28,000 square feet manufacturing building in Cane Creek. According to company officials, the lien with Bobby Marshall has been resolved amicably and paid off in full. The company is expecting to close on a substantial loan in early July, 2013, which will give them the opportunity to purchase additional Real Estate assets in the region for their business, steadily employ manufacturing workers, and purchase a substantial amount of equipment. The Danville Office of Economic Development is in discussion with the company about paying off the \$80,000 cash grant to the localities.

GOK International entered into a performance agreement with the City of Danville on August 24, 2012 regarding the \$1,000,000 TROF Grant offered for the project. The company agreed to create 300 jobs and make a capital investment of \$12,500,000 by August 24, 2015. The City of Danville also entered into an agreement with GOK International to provide a Technology Enhancement Grant of \$70,000 per year for five

years so long as the company is making progress on job creation and capital investment goals.

The Industrial Development Authority of Danville owns the 40,000 square foot Cane Creek Shell Building and worked with GOK International to finish the interior up-fit by April 2013. GOK International has an office on the third floor of Old Belt One in the River District of Danville. This office was opened in the Fall of 2012 while the Cane Creek Shell Building up-fit was completed. GOK International has been operating out of the Cane Creek Shell Building since mid-April 2013, and in the past two months has been hiring more workers, assembling furniture, and filling up their showroom.

RECOMMENDATION

No recommendation is required for this subject matter.

ATTACHMENTS

No attachments are required for this subject matter.

Danville-Pittsylvania Regional Industrial Facility Authority

Executive Summary

Agenda Item No.:	6-D
Meeting Date:	07/08/2013
Subject:	Financial Status Reports – June 30, 2013
From:	Barbara A. Dameron, Authority Treasurer

SUMMARY

A review of the financial status reports through June 30, 2013 will be provided at the meeting. The financial status reports as of June 30, 2013 are attached for the RIFA Board's review.

RECOMMENDATION

Staff recommends approving the financial status reports as of June 30, 2013 as presented.

ATTACHMENTS

Financial Status Reports

Financial Status

Table of Contents

- A. \$7.3 Million Bonds - Cane Creek Centre
- B. General Expenditures for FY 2013
- C. Mega Park – Funding Other than Bond Funds
- D. Berry Hill Mega Park – Lot 4 Site Development
- E. Rent, Interest, and Other Income Realized
- F. Unaudited Financial Statements

Danville-Pittsylvania Regional Industrial Facility Authority

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

As of June 30, 2013

Funding	Funding	Budget / Contract Amount	Expenditures	Encumbered	Unexpended / Unencumbered
Funds from bond issuance	\$ 7,300,000.00				
Issuance cost	(155,401.33)				
Bank fees	(98.25)				
Interest earned to date	486,572.40				
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		9,900.00	9,900.00	-	
Dewberry contracts ¹		69,582.50	69,582.50	-	
Dewberry contracts not paid by 1.7 grant ^{4, 5}		71,881.00	15,424.62	56,456.38	
Land		-	2,560,921.67	-	
Demolition services		71,261.62	71,261.62	-	
Legal fees		-	50,884.23	-	
CCC - Lots 3 & 9 project - RIFA Local Share ⁶		142,190.00	112,464.98	-	
Other expenditures		-	22,089.70	-	
Total	\$ 7,631,072.82	\$ 4,311,140.12	\$ 6,760,063.18	\$ 56,456.38	\$ <u><u>814,553.26</u></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

^{*} 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. Project finished under original budget.

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 2013
As of June 30, 2013

	<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 FY2012	11,042.93				
Transfer in from Rent for Charles Hawkins Bldg ¹	33,777.98				
Contingency					
Miscellaneous contingency items		\$ 47,992.93	\$ 218.50	\$ -	\$ 47,774.43
Total Contingency Budget		47,992.93	218.50	-	47,774.43
Legal		108,777.98	73,228.08	-	35,549.90
Accounting		20,750.00	20,750.00	-	-
Annual Bank Fees		4,400.00	4,571.25	-	(171.25)
Postage & Shipping		100.00	84.36	-	15.64
Meals		2,800.00	2,741.73	-	58.27
Utilities		4,000.00	252.34	-	3,747.66
Insurance		6,000.00	5,244.00	-	756.00
Total	\$ 194,820.91	\$ 194,820.91	\$ 107,090.26	\$ -	<u><u>\$ 87,730.65</u></u>

¹ The rent proceeds from the Charles Hawkins Research Building are restricted by the EDA. RIFA is allowed to reimburse the General Expenditures budget for expenses of the building after the EDA grant closeout date of 7/31/2008. This transfer is to utilize part of the rent proceeds of the Hawkins Building to reimburse RIFA's General Expenditures budget for such expenses paid by it for the Hawkins Building.

Danville-Pittsylvania Regional Industrial Facility Authority

Mega Park - Funding Other than Bond Funds

As of June 30, 2013

Funding	Funding	Budget / Contract Amount	Expenditures	Encumbered	Unexpended / Unencumbered
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				
Tobacco Commission FY10 SSED Allocation - Eng. Portion Deobligated	(244,797.00)				
Local Match for TIC FY10 SSED Allocation - Engineering Portion ⁵	76,067.61				
Additional funds allocated by RIFA Board on 1/14/2013 ⁶	11,854.39				
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	972,754.29	18,095.71	
Consulting Services - McCallum Sweeney		115,000.00	92,130.18	22,869.82	
Total	\$ 14,231,524.83	\$ 14,231,524.83	\$ 14,190,559.30	\$ 40,965.53	\$ (0.00)

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 was covered by the FY09 Tobacco Allocation. \$162,928 was covered by the FY10 Tobacco Allocation. \$87,922 will be covered with RIFA Funds.

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

⁵ The RIFA Board approved to utilize the remaining funds from the Mega Park bond funds and approximately \$65,000 of the 'Funds Available for Appropriation' towards the local match for the engineering portion of Tobacco Commission grant #1916 for the Berry Hill Mega Park.

⁶ Due to the expiration of the Tobacco Commission FY10 SSED Allocation, the RIFA Board approved on 1/14/2013 to utilize \$11,854.39 of the 'Funds Available for Appropriation' to cover the funding shortfall for the budgeted Dewberry & Davis contract.

Danville-Pittsylvania Regional Industrial Facility Authority
Berry Hill Mega Park - Lot 4 Site Development
As of June 30, 2013

	<u>Funding</u>	<u>Budget / Contract</u> <u>Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended /</u> <u>Unencumbered</u>
Funding					
Tobacco Commission FY12 Megasite Allocation	\$ 6,208,153.00				
Local Match for TIC FY12 Megasite Allocation - County Portion ¹	750,000.00				
Local Match for TIC FY12 Megasite Allocation - City Portion ¹	750,000.00				
Local Match for TIC FY12 Megasite Allocation - RIFA Portion ²	181,000.00				
Expenditures					
VA Water Protection Permit Fee		57,840.00	57,840.00	-	
Total	<u>\$ 7,889,153.00</u>	<u>\$ 57,840.00</u>	<u>\$ 57,840.00</u>	<u>\$ -</u>	<u>\$ 7,831,313.00</u>

¹ These amounts have not been sent to RIFA yet as they are not needed at this time. Each locality has its local match budgeted.

² The RIFA Board approved on 2/11/2013 to transfer the remaining funds of \$175,316.17 from the "Funds Available for Appropriation" budget sheet and funds of \$5,683.83 from the "Rent, Interest, and Other Income Realized" budget sheet to use for the RIFA local match to Tobacco Commission grant #2491 for Berry Hill Mega Park Lot 4 Site Development.

Danville-Pittsylvania Regional Industrial Facility Authority

Rent, Interest, and Other Income Realized

As of June 30, 2013

Source of Funds	Funding			Expenditures	Unexpended / Unencumbered
	Carryforward from FY2012	Receipts June 2013	Receipts FY2013		
<u>Carryforward</u>	\$ 376,519.31				
<u>Current Lessees</u>					
Institute for Advanced Learning and Research (IALR) ¹	Cyberpark	Hawkins Research Bldg at 230 Slayton Ave.	\$ 3,904.51	\$ 69,895.91	
Institute for Advanced Learning and Research (IALR)	Cyberpark	IALR Building at 150 Slayton Ave.	-	9.00	
Securitas	Cyberpark	Gilbert Building at 1260 South Boston Rd.	-	3,300.00	
Axxor N.A. LLC ³	Cane Creek	Apartments at 390 Cedar Lane	-	500.00	
Guilford Whitetail Management	Berry Hill	Klutz Farm off State Rd. 863	-	5,000.00	
Browning & Associates, Ltd. ⁴	Berry Hill	4380 Berry Hill Road House	-	1,000.00	
Mountain View Farms of Virginia, L.C.	Berry Hill	30 acre tract on Stateline Bridge Rd.	-	1,200.00	
Osborne Company of North Carolina, Inc.	Berry Hill	4380 Berry Hill Road Pastureland	-	1,000.00	
Clodfeiter Hunting Lease	Berry Hill	371.13 acres off State Road 863	-	-	
Mark L. Osborne	Berry Hill	Mega Park Lot 8 approx. 34.4 acres	-	-	
Total Rent			\$ 3,904.51	\$ 81,904.91	
<u>Interest Received</u> ²			\$ 19.37	\$ 295.89	
Expenditures					
Transfer to Berry Hill Mega Park Lot 4 Project ⁵				\$ 5,683.83	
Transfer to General Expenditures budget - Hawkins Bldg ⁶				\$ 33,777.98	
Totals			\$ 376,519.31	\$ 3,923.88	\$ 82,200.80
				\$ 39,461.81	\$ 419,258.30

Restricted ¹ \$ 361,295.57
Unrestricted \$ 57,962.73

¹ Please note that rent proceeds must be used in accordance with the U.S. Economic Development Administration's (EDA) Standard Terms and Conditions

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

³ Lease terminated August 31, 2012

⁴ Lease terminated August 13, 2012

⁵ The RIFA Board approved on 2/11/2013 to transfer the remaining funds of \$175,316.17 from the "Funds Available for Appropriation" budget sheet and funds of \$5,683.83 from the "Rent, Interest, and Other Income Realized" budget sheet to use for the RIFA local match to the Tobacco Commission grant #2491 for Berry Hill Mega Park Lot 4 Site Development.

⁶ The rent proceeds from the Charles Hawkins Research Building are restricted by the EDA as stated in note 1. RIFA is allowed to reimburse the General Expenditures budget for expenses paid for the building after the EDA grant closeout date of 7/31/2008. This transfer is to utilize part of the rent proceeds of the Hawkins Building to reimburse RIFA's General Expenditures budget for such expenses paid by it for the Hawkins Building.

Danville-Pittsylvania Regional Industrial Facility Authority
Statement of Net Assets^{1, 2}
June 30, 2013*

	Unaudited FY 2013
Assets	
<i>Current assets</i>	
Cash - checking	\$ 256,351
Cash - money market	1,140,241
Prepays	9,266
<i>Total current assets</i>	1,405,858
<i>Noncurrent assets</i>	
Restricted cash - project fund CCC bonds	871,010
Restricted cash - debt service fund CCC bonds	972,945
Restricted cash - debt service fund Berry Hill bonds	-
Restricted cash - debt service reserve fund Berry Hill bonds	2,000,099
Capital assets not being depreciated	24,839,271
Capital assets being depreciated, net	27,794,063
Construction in progress	2,277,130
Unamortized bond issuance costs	627,906
<i>Total noncurrent assets</i>	59,382,424
Total assets	60,788,282
Liabilities	
<i>Current liabilities</i>	
Bonds payable - current portion	1,045,000
Unearned income	5,850
<i>Total current liabilities</i>	1,050,850
<i>Noncurrent liabilities</i>	
Bonds payable - less current portion	10,275,000
<i>Total noncurrent liabilities</i>	10,275,000
Total liabilities	11,325,850
Net Assets	
Invested in capital assets - net of related debt	48,062,424
Unrestricted	1,400,008
Total net assets	\$ 49,462,432

¹ Please note 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 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 these statements are for the period ended June 30, 2013 as of June 27, 2013, 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
June 30, 2013*

	Unaudited FY 2013
Operating revenues	
Virginia Tobacco Commission Grants	5,708,878
Rental income	67,560
Total operating revenues	5,776,438
Operating expenses ⁴	
Mega Park expenses ³	71,765
Cane Creek Centre expenses ^{3, 5}	107,765
Cyber Park expenses ³	167,467
Professional fees	67,351
Insurance	5,456
Other operating expenses	3,126
Total operating expenses	422,930
Operating income	5,353,508
Non-operating revenues (expenses)	
Interest income	547
Interest expense	(187,004)
Total non-operating expenses, net	(186,457)
Net income before capital contributions	5,167,051
Capital contributions	
Contribution - City of Danville	405,379
Contribution - Pittsylvania County	405,379
Total capital contributions	810,758
Change in net assets	5,977,809
Net assets at July 1,	43,484,623
⁶Net assets at June 30,	\$ 49,462,432

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 this line item includes fees of \$55,740 related to the \$7.3M bonds for Cane Creek.

⁶ Please note this will change once all FY2013 entries are made and may also change depending on audit adjustments, if any, for FY2013 and the nature of those audit adjustments.

Danville-Pittsylvania Regional Industrial Facility Authority
Statement of Cash Flows
*June 30, 2013**

	Unaudited FY 2013
Operating activities	
Receipts from grant reimbursement requests	\$ 5,867,159
Receipts from leases	80,408
Incentives paid	(150,000)
Payments to suppliers for goods and services	(339,762)
Net cash provided by operating activities	5,457,805
Capital and related financing activities	
Capital contributions	793,335
Interest paid on bonds	(310,641)
Principal repayments on bonds	(5,825,000)
Net cash used by capital and related financing activities	(5,342,306)
Investing activities	
Interest received	547
Net cash provided by investing activities	547
Net increase in cash and cash equivalents	116,046
Cash and cash equivalents - beginning of year (including restricted cash)	5,124,600
Cash and cash equivalents - through June 30, 2013 (including restricted cash)	\$ 5,240,646
Reconciliation of operating income before capital contributions to net cash provided by operating activities:	
Operating income	\$ 5,353,508
Adjustments to reconcile operating income to net cash provided by operating activities:	
Non-cash operating in-kind expenses	17,424
Changes in assets and liabilities:	
Change in prepaids	313
Change in due from other governments	158,281
Change in other receivables	17,886
Change in accounts payable	(84,851)
Change in unearned income	(3,256)
Change in security deposit	(1,500)
Net cash provided by operating activities	\$ 5,457,805

Components of cash and cash equivalents at June 30, 2013:	
American National - Checking	\$ 256,351
American National - General money market	1,140,241
Wachovia - \$7.3M Bonds CCC Debt service fund	972,945
Wachovia - \$7.3M Bonds CCC Project fund	871,010
US Bank - \$11.25M Bonds Berry Hill Debt service fund	-
US Bank - \$11.25M Bonds Berry Hill Debt service reserve fund	2,000,099
	\$ 5,240,646