

SECOND AMENDMENT TO THE NEW RIVER VALLEY COMMERCE PARK PROJECT
PARTICIPATION AGREEMENT

THIS SECOND AMENDMENT TO THE PARTICIPATION AGREEMENT (the “Second Amendment to Participation Agreement”) is dated this ___ day of _____, 2010 between and among Virginia’s First Regional Industrial Facility Authority and the Participants defined below.

W I T N E S S E T H :

WHEREAS, the undersigned governing bodies are each member localities of Virginia’s First Regional Industrial Facility Authority (“the Authority”) a body corporate, organized and created pursuant to the Virginia Regional Industrial Facilities Act, Chapter 64 Title 15.2 of the Code of Virginia, 1950, as amended (“the Act”); and

WHEREAS, pursuant to the authority granted under the Act to enter into agreements for the development of regional economic development projects the Authority and the County of Craig, Virginia, the County of Giles, Virginia, the County of Montgomery, Virginia, the County of Pulaski, Virginia, the County of Roanoke, Virginia, the County of Wythe, Virginia, the County of Bland, Virginia, the City of Radford, Virginia, the City of Roanoke, Virginia the Town of Dublin, Virginia, the Town of Pearisburg, Virginia and the Town of Pulaski, Virginia each entered into the New River Valley Commerce Park Project Participation Agreement – Initial Phase dated as of October 14, 1999 (“the Participation Agreement”) for the development of the Commerce Park Project; and

WHEREAS, on August 8, 2001, the Participation Agreement was amended whereby County of Wythe was allowed to sell its shares to the remaining participants and withdraw from the Participation Agreement leaving the County of Craig, Virginia, the County of Giles, Virginia, the County of Montgomery, Virginia, the County of Pulaski, Virginia, the County of Roanoke, Virginia, the County of Bland, Virginia, the City of Radford, Virginia, the County of Roanoke, Virginia, the

Town of Dublin, Virginia, the Town of Pearisburg, Virginia, and the Town of Pulaski, Virginia as the remaining participants (“the Participants”); and

WHEREAS, the Authority and the Participants desire to amend the Participation Agreement a second time by (1) expanding the scope of the Project Description to include all actions taken place to date and to acknowledge planning and feasibility analysis of those activities and projects that are in the Commerce Park adopted Program of Work; (2) amending the required voting approval before the Participation Committee may act to lease, use, sell encumber, transfer or dispose of any real or personal property comprising of part or all of the Project; (3) amending the Finance Plan for the project by including the use of money from the sale of surplus property and the use of surplus Authority dues money upon unanimous consent of all member jurisdictions of the Authority, allowing the Authority to pledge such surplus Authority money, as well as confirm the outstanding debt on behalf of the Commerce Park; and (4) amending the Revenue Sharing provision to provide for the sharing of Business Personal Property taxes and Real Estate Taxes between the host community Pulaski County and the Participants with a portion of this additional revenue to be eligible to be offered by the Participants as incentive to attract businesses to the Commerce Park.

NOW, THEREFORE, The Authority and the Participants agree and consent as follows:

1. That the Participation Agreement is amended in accordance with this Second Amendment to the New River Valley Commerce Park Project Participation Agreement and except as amended by the First Amendment and this Second Amendment, the Agreement is confirmed, reiterated and ratified.

2. The Scope of the Project Description as defined in paragraph I. of the Participation Agreement is hereby amended to include the following additional components:

- acquisition of all land located in Pulaski County, Virginia, now titled to the Authority, including:

<u>Tax Map Parcel</u>	<u>Acres from Tax Map</u>	<u>From:</u>
036-005-0000-0003	411.981	J. B. Collins, III & Sally Cloyd Collins Evans: Douglas R. Cullip & Emogene R. Cullip and Industrial Development Authority of Pulaski County, Virginia
047-048-0000-0004	36.520	Douglas R. Cullip & Emogene R. Cullip; and Andy & Becky Cullip
047-048-0000-0010	65.222	Cullips and Evans/Collins in buffer zone
036-003-0000-0005	5.000	New River Valley Airport Commission member governments for entrance road
036-003-0000-0006	5.000	Pledged for transfer to NRV Airport Commission
036-005-0000-0003	340.898	Edwina Dalton Phillips purchase
037-001-0000-0021	55.102	Edwina Dalton Phillips donation
Total Acreage	919.723	From Tax Map
Developable Acreage	657.500	From May 2004 Master Plan

- wastewater capacity reservation and cost recovery agreement of November 3, 2005 for 24 " sewer gravity main crossing Shelor Race Complex
- transfer of five acres to New River Valley Airport Commission member governments in return for the five acre entrance road parcel acquired from the Airport Commission
- surplus property sale of 36.532 acres zoned A-1 including former Mebane house
- reservation of one million gallons per day (MGD) water and sewer capacity from PULASKI COUNTY PUBLIC SERVICE AUTHORITY (PSA), along with customer pledge to pay one-third (1/3) of PSA debt service for related three MGD system water and sewer expansion
- marketing and development of large lots but also smaller lots in order to maximize the development of the Commerce Park
- planning and feasibility analysis of those activities and projects that are in the Commerce Park adopted Program of Work including:
 - extension of rail service to Commerce Park sites;
 - extension of electric transmission line and substation to Commerce Park sites, including implementation of the American Electric Power plan of 2008;
 - extension of Virginia Department of Transportation (VDOT) roadways to serve Commerce Park sites and along border with NRV Airport for a transportation thoroughfare;
 - disposition of additional land that may be declared surplus, including land southeast of Rhuebush road and along the southern Commerce Park border in excess of the required 300 feet wide green-space buffer;
 - host for the proposed Virginia's Nanotechnology Park; and

- additional projects with project based financing pursuant to the August 8, 2001 Agreement for Project Based Financing by Virginia's First Regional Industrial Facility Authority.

3. Paragraph II of the Participation Agreement is hereby amended to require that the Participation Committee may not lease, sell, encumber, transfer or dispose of any real or personal property comprising the Project or authorize the Authority to do the same without an affirmative vote of both a majority of the shares entitled to vote and an affirmative vote of two-thirds of the Participants, which two-thirds is agreed to be seven of the eleven current members.

4. The Financing Plan as defined in paragraph IX of the Participation Agreement is hereby amended to recognize the current debt obligations for the Commerce Park and include the following additional sources of revenue:

- The proceeds of:
 - Rural Development Revenue Bond of March 19, 2002 with annual interest of 4.75% and June 30, 2009 outstanding balance of \$1,971,008;
 - Rural Development Revenue Bond of March 2, 2005 with annual interest of 4.35% and June 30, 2009 outstanding balance of \$2,218,409; and
 - A commercial bank loan of March 19, 2002 with variable interest and June 30, 2009 outstanding balance of \$1,177,588.
- The use of money from the sale of surplus property that was previously purchased by the Participants but now deemed surplus.
- The use of surplus Authority dues money upon unanimous consent of all member jurisdictions of the Authority authorizing the use of the surplus dues.
- An estimated \$3.1 million loan or other financing to the Pulaski County Public Service Authority to match a grant from the US Department of Commerce Economic Development Administration to be used for the purpose of extending water and sewer infrastructure to serve the New River Valley Commerce Park, of which financing one-third is to be pledged as a capacity reservation fee to provide one million gallons per day (MGD) water and sewer capacity to the Commerce Park.
- Refunding of bonds, such as through procurement of new commercial bank financing, to replace existing commercial bank financing, or other changes in debt financing, when deemed advantageous by the Commerce Park Participation Committee to reduce the cost of existing borrowing.

This amendment to the Financing Plan shall not result in the Participants incurring any additional costs beyond the existing annual dues and their individual share payments.

5. The Revenue Sharing as defined in paragraph XII of the Agreement is hereby amended to include the sharing of additional tax revenues to include business personal property taxes and real estate taxes assessed by the host community Pulaski County to be shared between the host community Pulaski County and the Participants for a period of fifteen years as defined below once these taxes are assessed due to a business locating in the Park. The parties agree that for the years 1 through 9 Pulaski County and the Participants shall share equally 100% of the business personal property and real estate taxes assessed. For years 10 through 11 Pulaski County and the Participants shall share equally 75% of the business personal property and real estate taxes assessed. For years 12 through 13 Pulaski County and the Participants shall share equally 50% of the business personal property and real estate taxes assessed. For years 14 through 15 Pulaski County and the Participants shall share equally 25% of the business personal property and real estate taxes assessed. The parties recognize that Pulaski County's agreement to share the business personal property taxes and the real estate taxes assessed by Pulaski County as the host community with the Participants is a moral obligation and not a legal debt of Pulaski County and the payment of those additional tax revenues to the Participants is subject to annual appropriation of the Board of Supervisors of Pulaski County. The revenue generated from the business personal property taxes and the real estate taxes shall not be subject to the 5% host fee or the 1% Authority administrative fee that is applicable to revenue generated by machinery and tools tax.

The Participants agree that the business personal property and real estate taxes referenced above that would be generated in the first seven (7) years may be offered by the Participants as incentive to locate industry to the New River Valley Commerce Park upon an affirmative vote of both a majority of the shares entitled to vote and two-thirds of the Participants, which two-thirds is determined to be seven of the eleven current members.

6. If any provision of this Second Amendment to the Participation Agreement shall be held invalid by any court of competent jurisdiction such holding shall not invalidate any other provisions hereof.

7. This Second Amendment to the Participation Agreement may be executed in any number of counterparts each of which shall be an original, together they shall constitute but one and the same Second Amendment to the Participation Agreement.

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VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY

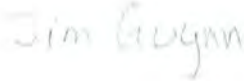
Attest:

Approved as to form:



Secretary of the
Authority Board

Attorney, VFRIFA



Chairman, Authority Board

COUNTY OF BLAND, VIRGINIA

Attest:

Approved as to form:

Clerk, Board of Supervisors

County Attorney

Chairman, Board of Supervisors

COUNTY OF CRAIG, VIRGINIA

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County Attorney

Chairman, Board of Supervisors

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Town Attorney

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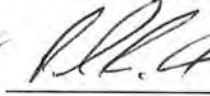
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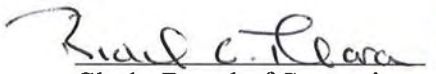
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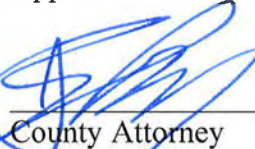
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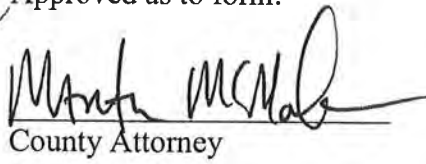
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Judy R. Harrell

Clerk, Town Council

James A. Hartley

Town Attorney

Barbara M. Stapp

Mayor
2-9-10

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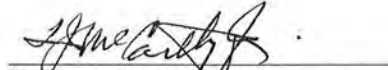
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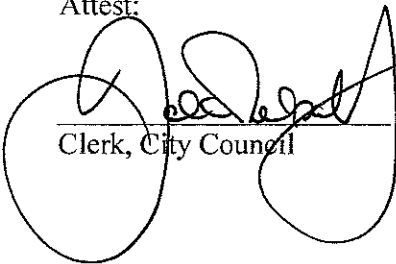
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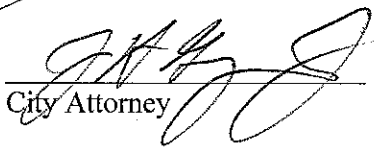
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City Attorney



Mayor

CITY OF ROANOKE, VIRGINIA

Attest:

Approved as to form:

Stephanie M. Moon
Clerk, City Council
5/20/10

Dery E. Ziegenfuss
A. City Attorney AUTHORIZED
By ORDINANCE
No. 38812-051710

D. Q. Bauman
Mayor
5/20/10

COUNTY OF ROANOKE, VIRGINIA

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Chairman, Board of Supervisors

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City Attorney

Mayor

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Becky R. Meador

Clerk, Board of Supervisors

Dawn M. Mulvey

County Attorney

Joseph B. "Butch" Church

Chairman, Board of Supervisors