

RESOLUTION (1) ACCEPTING THE LEASE OF 2656
LISHELLE PLACE FROM THE CITY OF VIRGINIA
BEACH (2) AUTHORIZING THE TEMPORARY SIX-
MONTH SUBLEASE OF THAT PROPERTY TO BMZ
AND (3) AUTHORIZING THE ESTABLISHMENT OF
AN INDUSTRIAL INCUBATOR IN THAT SPACE

WHEREAS, the City of Virginia Beach (the “City”) is the owner of that certain parcel of land, with all improvements thereon, located at 2656 Lishelle Place (GPIN: 1496-54-4149) (the “Premises”);

WHEREAS, at its meeting on April 19, 2022, City Council will consider an ordinance to lease the Premises to the City of Virginia Beach Development Authority (the “Authority”) for a period of five (5) years (the “Lease”) to promote the use of the Premises;

WHEREAS, if the Lease is approved by City Council, the Authority desires to accept that lease and assume responsibility for the Premises;

WHEREAS, the Authority has identified the Premises as a suitable location for the establishment of an industrial incubator, wherein new and growing businesses could use portions of the Premises to establish their operations until such companies could move into larger space (the “Incubator”);

WHEREAS, staff will need time to develop a plan for the establishment of the Incubator;

WHEREAS, BMZ USA, Inc., a Virginia corporation (“BMZ”) has requested to use the Premises on a short-term basis, not to exceed six (6) months, for storage purposes (the “BMZ Sublease”);

WHEREAS, any user of the Premises would need to be compatible under the City’s Zoning Ordinance and comply with all the City’s permitting requirements and regulations;

WHEREAS, the terms and conditions of the proposed lease of the Premises from the City are set forth in the Summary of Terms, attached hereto as Exhibit A;

WHEREAS, the terms and conditions of the BMZ Sublease are set forth in the BMZ Summary of Terms, attached hereto as Exhibit B; and

WHEREAS, the VBDA is of the opinion that the actions taken with respect to the Premises will further the VBDA’s mission by promoting additional industrial activity in the City of Virginia Beach.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. The Authority accepts the lease of the Premises from the City, in accordance with the Summary of Terms, attached hereto as Exhibit A, and made a part hereof, and such other terms, conditions or modifications as may be acceptable to the Chair or Vice-Chair and in a form deemed satisfactory by the City Attorney.

2. The Authority authorizes the sub-lease of the premises to BMZ for a period not to exceed six (6) months, in accordance with the BMZ Summary of Terms, attached hereto as Exhibit B, and made a part hereof, and such other terms, conditions or modifications as may be acceptable to the Chair or Vice-Chair and in a form deemed satisfactory by the City Attorney.

3. During the term of the BMZ Sublease, staff is directed to develop a plan for the establishment of the Incubator for presentation to and consideration by the Authority.

4. All revenue received from subtenants of the Premises shall be returned to the City, after payment of the Authority's expenses incurred in its use of the Premises.

Adopted this 19th day of April, 2022, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY


By 
Secretary/Assistant Secretary

APPROVED AS TO CONTENT:



Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:



City Attorney

EXHIBIT A

SUMMARY OF TERMS

LESSOR: City of Virginia Beach

LESSEE: City of Virginia Beach Development Authority

PREMISES: 16,500+/- square feet of space on a 1.5+/- acre lot located at 2656 Lishelle Place (GPIN 1496-54-4149)

TERM: Up to five (5) years

RENT: \$1.00 per year

PROPOSED USE: Lessee shall use the Premises as an incubator space for new and/or growing companies located in the City of Virginia Beach

RIGHTS AND RESPONSIBILITIES OF LESSEE:

- Lessee shall be responsible for the cost of all normal maintenance and repairs to building.
- Lessee shall maintain liability and other insurance to satisfaction of City.
- After payment of expenses incurred to maintain the Premises, Lessee shall remit all remaining sums received for rent and use fees to the City.

**RESOLUTION OF THE
CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY
AUTHORIZING THE ISSUANCE OF
REVENUE BONDS FOR THE BENEFIT OF
CAPE HENRY COLLEGIATE SCHOOL, INC.
AND THE EXECUTION OF RELATED DOCUMENTS**

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") was created and organized pursuant to and in accordance with the provisions of Chapter 643 of the Virginia Acts of Assembly of 1964, as amended, which incorporates by reference the Industrial Development and Revenue Bond Act, Title 15.2, Chapter 49 of the Code of Virginia of 1950, as amended (collectively, the "Act"), and has been vested with all powers necessary or convenient to carry out and effectuate the purposes and provisions of the Act, including, among others, the issuance of bonds to assist Cape Henry Collegiate School, Inc., a Virginia non-stock corporation (the "School") which is exempt from federal income taxation as a charitable organization pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), in (1)(a) financing not to exceed \$16,000,000 of the cost of the acquisition, construction and equipping of an approximately 49,500 square foot academic and performing arts facility to be known as the Center for Innovation and the Performing Arts, to be located on the School's campus at 1320 Mill Dam Road, in the City (the "Property"), and (b) the payment of a portion of the costs of issuing the Bonds and other transaction costs (collectively, the "Project") and (2) refinancing the outstanding principal balance of that certain \$8,438,000 Economic Development Authority of Middlesex County Revenue and Refunding Bond (Cape Henry Collegiate School Project), Series 2013 (the "Refunded Bond"), meeting the requirements of Section 145 of the Internal Revenue Code of 1986, as amended (the "Code");

WHEREAS, (i) the acquisition, construction, equipping and operation of the Project and the refinancing of the Refunded Bond will benefit the inhabitants of the City of Virginia Beach, Virginia and the Commonwealth of Virginia and promote their health, welfare, convenience and prosperity; (ii) providing financing for the Project and refinancing the Refunded Bond will thus be in the public interest; and (iii) the issuance of the proposed bonds will be consistent with the purposes of the Act and the powers of the Authority; and

WHEREAS, the School desires the assistance of the Authority to finance the costs incurred and to be incurred for the Project and the Authority has agreed to assist the School;

WHEREAS, the School has represented that such assistance by the Authority, among other things, shall benefit the School and assist the School to continue to carry out its charitable mission in the community at large and the Commonwealth of Virginia in a more efficient and effective manner;

WHEREAS, the School, in its application, has described the benefits of the Project to the City of Virginia Beach and the Commonwealth and has requested the Authority to issue its revenue bond under the Act in an original principal amount not to exceed \$16,000,000 to finance a portion of the costs of the Project (the "New Money Bond") and in addition, also asks the Authority to issue a refunding revenue bond in the approximate original principal amount of \$3,779,109.02, to

refinance the outstanding principal balance of the Refunded Bond (the “Refunding Bond,” and together with the New Money Bond, the “Bonds”) for the benefit of the School to finance the Project and refinance the Refunded Bonds;

WHEREAS, a public hearing was held by the Authority on this date in compliance with the requirements of Section 147(f) of the Code, Treasury Regulations Section 1.147(f)-1, Section 15.2-4906 of the Virginia Code, and Section 2 of Chapter 514 of the Acts of the General Assembly of Virginia of 1983, and immediately subsequent to such public hearing the Authority adopted a resolution (the “Official Action Resolution”): (a) agreeing in principle, among other things, to assist the School by cooperating in the issuance of the proposed New Money Bond, (b) recommending to the City Council of the City (the “Council”) that it adopt a resolution (the “Council Resolution”) granting “public approval” of the issuance of the New Money Bond to fund a portion of the cost of acquiring, constructing and equipping the Project and the plan of financing within the meaning of Section 15.2-4906 of the Virginia Code and Section 147(f) of the Code, and (c) directing the Chair or Vice Chair of the Authority to transmit to the Council the Fiscal Impact Statement required by Section 15.2-4907 of the Virginia Code, a copy of the Official Action Resolution, and a reasonably detailed summary of the Authority’s public hearing held on this date;

WHEREAS, there have been presented to this meeting the forms of the following documents and instruments which the Authority proposes to execute to carry out the transactions described above:

(a) Bond Purchase and Financing Agreement dated as of May 1, 2022 (the “Financing Agreement”), among the Authority, the School and Southern Bank and Trust Company (the “Lender”);

(b) The forms of (i) the New Money Bond, designated as City of Virginia Beach Development Authority Revenue Bond (Cape Henry Collegiate School Project) Series 2022A, in the original principal amount not to exceed \$16,000,000.00 and (ii) the Refunding Bond, designated as City of Virginia Beach Development Authority Refunding Revenue Bond (Cape Henry Collegiate School Project) Series 2022B, in the approximate original principal amount of \$3,779,109.02, issued and registered for and bearing interest at the rates and payable as set forth therein;

(c) The forms of the Assignments (the “Assignments”) at the foot of each of the School’s two promissory notes designated as Promissory Note (Series 2022A) and Promissory Note (Series 2022B) and initially payable to the Authority (each, a “Note”), whereby each Note is assigned by the Authority, without recourse, to the Lender, as security for the related Bond;

(d) The form of the Certificate as to Arbitrage, to be dated as of the date of issuance of the Bonds (the “Arbitrage Certificate”); and

(e) Internal Revenue Service Information Return Form 8038 for Tax Exempt and Private Activity Bond Issues (“Form 8038”);

WHEREAS, this authorizing resolution provides that it will only become effective upon the delivery to the Authority's Secretary of a copy of the adopted Council Resolution, granting public approval for the New Money Bond;

WHEREAS, no member of the Authority has any personal or business interest in the School, the Bonds or the related promissory notes of the School in connection therewith, or in any of the transactions contemplated therein, or has otherwise engaged in conduct prohibited under or in violation of the Virginia Conflict of Interests Act, Chapter 31, Title 2.2 of the Virginia Code 1950, as amended, in connection with this Resolution or any other official action of the Authority in connection therewith or contemplated thereunder;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY :

1. The Chair or Vice Chair of the Authority is hereby authorized and directed to execute, the Secretary or Assistant Secretary of the Authority is hereby authorized and directed, as and where called for, to affix and attest the seal of the Authority, and any of them are authorized and directed to deliver the Financing Agreement, the Arbitrage Certificate, Form 8038 and all other related necessary instruments, certificates and documents to the appropriate parties on the terms provided in such documents.

2. The Chair or Vice Chair of the Authority is hereby authorized and directed to execute the Bonds, and the Secretary or Assistant Secretary of the Authority is hereby authorized and directed to affix thereto and attest the seal of the Authority and, on payment of the purchase price thereof, to cause the Bonds so executed and authenticated to be delivered to the Lender as the purchaser thereof under the Financing Agreement. All the terms of the Bonds, including but not limited all interest rate provisions, are by this reference thereto incorporated herein as part of this Resolution.

3. Neither the Bonds nor the premium, if any, nor the interest payable thereon shall be a general obligation debt of the Commonwealth of Virginia or any political subdivision thereof, including the Authority or the City, and neither the Commonwealth of Virginia, nor any political subdivision thereof, including the Authority or the City, nor the officers, commissioners, directors, employees and/or agents, past, present or future, of any or all, are or shall be personally liable thereon. Rather, the Bonds, together with the prepayment premium, if any, and the interest payable thereon, shall be a limited obligation of the Authority payable solely pursuant to the terms of the Bonds and the related documents. Neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the Authority and the City, is pledged to the payment of the principal of, prepayment premium, if any, or the interest on the Bonds.

4. The School shall pay to the Authority an administrative fee for issuing and carrying the Bonds equal to 1/8 of 1% of the original principal amount of the Bonds per annum, on each anniversary of the issuance of the Bonds.

5. The Financing Agreement, the Bonds, the Arbitrage Certificate and Form 8038 shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, amendments, omissions, insertions and other changes as may be approved by counsel for the Authority and the officer or officers executing them, their execution to constitute conclusive evidence of approval of any such completions, amendments, omissions, insertions and other changes.

6. Any authorization to the officers of the Authority to execute a document shall include authorization (a) to the Secretary or Assistant Secretary to affix the seal of the Authority to such document and attest such seal, (b) if the closing of the issuance of the Bonds is delayed, to approve redating the Bonds and related documents to the month during which the rescheduled closing occurs; and (c) if prior to closing of the issuance of the Refunding Bond, the principal amount of the Refunded Bond is determined by Bond Counsel, with the concurrence of counsel to the Authority, to be other than \$3,779,109.02 (whether due to the closing being delayed into a subsequent month or an inadvertent error), to change the original principal amount of the Refunding Bond to equal the outstanding principal balance of the Refunded Bond on the date the Bonds are ultimately issued and the Refunding Bond is refunded.

7. The officers of the Authority are hereby authorized and directed to take all such further action and to execute and deliver all such other certificates, instruments and documents, as they may consider necessary or desirable in connection with the issuance and sale of the Bonds and the undertaking of the financing of the Project.

8. All actions of the officers of the Authority which are in conformity with the purposes and intent of these Resolutions and in furtherance of the issuance and sale of the Bonds and the undertaking of the financing of the Project are hereby approved and confirmed.

9. All costs and expenses in connection with the Bonds, including but not limited to the fees and expenses of Bond Counsel, shall be paid from the proceeds from the sale of the Bonds to the extent permitted by the Code and the Financing Agreement, or from the funds of the School. If for any reason the Bonds are not issued, it is understood that all such expenses shall be paid by the School and that the Authority shall have no responsibility therefor.

10. The provisions of these Resolutions are hereby declared to be separable, and if any section, phrase or provision of these Resolutions shall be declared invalid, such invalidity shall not affect the validity of the remainder of the sections, phrases and provisions of the Resolutions.

11. These Resolutions will take effect upon the delivery to the Secretary of the Authority of a copy of the adopted Council Resolution granting public approval of the issuance of the New Money Bond.

ADOPTED: April 19, 2022

CERTIFICATE OF VOTES

The following is a record of the roll-call vote by the City of Virginia Beach Development Authority (the "Authority"), on the foregoing resolution, approved at the duly called public meeting of the Authority held on April 19, 2022, at which meeting and for which roll-call vote a quorum of the Authority was present:

COMMISSIONERS	AYE	NAY	ABSTAIN	ABSENT
David L. Bernd, Secretary				X
Dr. William Brown	✓			
William Brunke (Treasurer)	✓			
Nneka Chiazor	✓			
W. Taylor Franklin (Assistant Secretary)	✓			
Penny Morgan				X
Lisa M. Murphy (Chair)			✓	
Michael J. Standing	✓			
Joseph E. Strange (Vice Chair)	✓			
Guenter H. Weissenseel	✓			
Ronnie L. Parker				X

[AFFIX SEAL]

City of Virginia Beach Development Authority

By: 
 Name: TAYWAN ADAMS
 Title: Secretary / Assistant Secretary

**RESOLUTION EVIDENCING THE OFFICIAL INTENT OF THE
CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY
TO ISSUE ITS REVENUE BONDS FOR THE BENEFIT OF
CAPE HENRY COLLEGIATE SCHOOL, INC., IN THE
PRINCIPAL AMOUNT NOT TO EXCEED \$16,000,000**

WHEREAS, the City of Virginia Beach Development Authority (the "Authority"), was created pursuant to Chapter 643 of the Virginia Acts of Assembly of 1964, as amended (the "Act"), and is now existing and operating as a public body corporate and politic; and

WHEREAS, pursuant to the Act, among the powers granted to the Authority is the power to issue its revenue bonds for any purpose for which an industrial development authority organized under Title 15.2, Chapter 49 of the Code of Virginia may issue its bonds, and as a result of such authorization, the Authority is empowered to issue its bonds for facilities for nonprofit organizations, exercising such power for the benefit of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience or prosperity; and

WHEREAS, the Authority has engaged in discussions with Cape Henry Collegiate School, Inc., a Virginia non-stock corporation (the "Applicant") recognized as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), regarding the issuance of \$16,000,000 of the City of Virginia Beach Development Authority Revenue Bonds (the "Bonds") for the purposes of: (1) financing a portion of the cost of the acquisition, construction and equipping of an approximately 49,500 square foot academic and performing arts facility to be known as the Center for Innovation and the Performing Arts, to be located on the Applicant's campus at 1320 Mill Dam Road, Virginia Beach, VA 23454, and (2) paying a portion of the Bonds' issuance costs and other transaction costs (collectively, the "Project"); and

WHEREAS, the Applicant will be the initial legal owner of the Project, and its principal place of business is located at 1320 Mill Dam Road, Virginia Beach, VA 23454; and

WHEREAS, the Applicant has applied to the Authority for the issuance of the Bonds, and pursuant to due notice, the Authority has on this date, following reasonable public notice, conducted a public hearing on the application of the Applicant for the issuance of such Bonds in compliance with the requirements of Section 147(f) of the Code, Treasury Regulations Section 1.147(f)-1, Section 15.2-4906 of the Virginia Code, and Section 2 of Chapter 514 of the Acts of the General Assembly of Virginia of 1983; and

WHEREAS, the Applicant has requested that the Authority take official action authorizing the financing of the Applicant's acquisition, construction and equipping of the Project, agreeing in principle to cooperate in the issuance of the Bonds as proposed by the Applicant, subject to the Applicant obtaining the approval of the Authority's issuance of the Bonds by the City Council of the City of Virginia Beach (the "Council") prior to the issuance of the Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. The recitals made in the preambles to this Resolution are hereby adopted as a part of this Resolution.
2. It is found and determined that the issuance of the Bonds will promote education in the City of Virginia Beach, benefit its inhabitants and promote their health, welfare, convenience and prosperity.
3. It is hereby found and determined that the Project constitutes an “Authority Facility” within the meaning of the Act.
4. Upon the recommendation of the Applicant, the Authority hereby appoints Williams Mullen as Bond Counsel to supervise the Authority’s proceedings and approve the issuance of the Bonds for the Project.
5. To assist the Applicant to undertake the development and financing of the Project, the Authority hereby agrees in principle to cooperate in the issuance of its Bonds in an amount not to exceed \$16,000,000.00, upon terms and conditions to be mutually agreed upon by the Authority, the Applicant and Southern Bank and Trust Company (the “Bond Purchaser”). The Bonds shall be issued pursuant to a bond purchase and loan agreement among the Authority, the Applicant and the Bond Purchaser, and such other documentation as may be acceptable to the Bond Purchaser, the Chair or Vice Chair of the Authority and counsel to the Authority.
6. The Applicant has represented to the Authority that interest on the Bonds is intended to be generally excluded from the gross income of the holders thereof for federal and state income tax purposes, and that the Applicant shall pay to the Authority an administrative fee for issuing and carrying the Bonds, due to the Bonds’ expected maturity, equal to 1/8 of 1% of the original principal amount of the Bonds per annum, on each anniversary of the issuance of the Bonds.
7. All costs and expenses in connection with the Bonds, including but not limited to the fees and expenses of Bond Counsel and counsel to the Authority, shall, at the option of the Applicant, be paid from the proceeds of the Bonds to the extent permitted by law and funds are available, or else from funds of the Applicant. If for any reason the Bonds are not issued, it is understood that all such expenses shall be paid by the Applicant and that the Authority shall have no responsibility therefor.
8. Neither the Bonds nor the premium, if any, nor the interest payable thereon shall be a general obligation debt of the Commonwealth of Virginia or any political subdivision thereof, including the Authority or the City, and neither the Commonwealth of Virginia, nor any political subdivision thereof, including the Authority or the City, and none of the officials, officers, commissioners and/or employees, past, present or future, are or shall be personally liable thereon. Rather, the Bonds, together with the premium, if any, and the interest payable thereon, shall be a limited obligation of the Authority payable pursuant to the terms of the Bonds and the related documents solely from the revenues and receipts pledged therefor, and neither the faith and credit nor the taxing power of the

Commonwealth of Virginia or any political subdivision thereof, including the Authority and the City, shall be pledged to the payment of such obligations.

9. The Authority recommends that the Council grant “public approval” of the issuance of the proposed Bonds and the plan of financing within the meaning of Section 15.2-4906 of the Virginia Code and Section 147(f) of the Code, and directs any officer of the Authority to transmit to the Council the Fiscal Impact Statement required by Section 15.2-4907 of the Virginia Code, a copy of this Resolution and a reasonably detailed summary of the Authority’s public hearing held this date.
10. The provisions of this Resolution are hereby declared to be separable, and if any section, phrase or provision of this Resolution shall be declared invalid, such invalidity shall not affect the validity of the remainder of the sections, phrases and provisions of this Resolution.
11. The Authority shall perform such other acts and adopt such further resolutions as may be required to implement its undertakings hereinabove set forth.
12. This Resolution shall take effect immediately upon its adoption.

[AFFIX SEAL]

City of Virginia Beach Development Authority

By: 

Name: TAYLOR ADAMS

Title: Title: Secretary / Assistant Secretary

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
CERTIFICATE OF VOTES FOLLOWS]

CERTIFICATE OF VOTES

The following is a record of the vote by the City of Virginia Beach Development Authority on the foregoing "Resolution Evidencing the Official Intent of the City of Virginia Beach Development Authority to Issue its Revenue Bonds for the Benefit of Cape Henry Collegiate School, Inc., in the Principal Amount not to exceed \$16,000,000," approved at the duly called public meeting of the Authority held on April 19, 2022, after the holding of a public hearing thereon, at which public hearing and meeting a quorum of the Authority was present:

COMMISSIONERS	AYE	NAY	ABSTAIN	ABSENT
David L. Bernd, Secretary				✓
Dr. William Brown	✓			
William Brunke (Treasurer)	✓			
Nneka Chiazor	✓			
W. Taylor Franklin (Assistant Secretary)	✓			
Penny Morgan				✓
Lisa M. Murphy (Chair)			✓	
Michael J. Standing	✓			
Joseph E. Strange (Vice Chair)	✓			
Guenter H. Weissenseel	✓			
Ronnie L. Parker				✓

[AFFIX SEAL]

City of Virginia Beach Development Authority

By: 

Name: Tawone Adams

Title: Secretary / Assistant Secretary

A RESOLUTION APPROVING THE LEASE OF
PROPERTY LOCATED OFF LANDSTOWN ROAD
FOR UP TO FIVE YEARS WITH DAWLEY
FAMILY FARMS, LLC

WHEREAS, Dawley Family Farms, LLC (“Dawley”) has leased approximately 45 acres of property located adjacent to the Virginia Beach National Golf Course for farming purposes since 2017 from the City of Virginia Beach (the “Total Premises”);

WHEREAS, approximately 19.4 acres of the Total Premises is now owned by the City of Virginia Beach Development Authority (the “Authority”) (Part of GPIN: 1494-17-0763) (the “VBDA Premises”);

WHEREAS, Dawley desires to continue leasing the Total Premises for farming purposes, and is therefore seeking approval from the Authority to continue leasing the VBDA Premises;

WHEREAS, Dawley will also be seeking approval from the City to continue leasing the City’s portion of the Total Premises for an initial term prorated to seven months, with four (4) one-year renewal options;

WHEREAS, Dawley has agreed to pay rent for the Total Premises, as set forth in the Summary of Terms attached hereto as Exhibit A, and for the ease of accounting, the entire rent will be paid to the City; and

WHEREAS, leasing the VBDA Premises for farming purposes would be beneficial because it would (i) alleviate the Authority’s maintenance responsibilities and (ii) keep the VBDA Premises from devolving into undesired wetlands;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

That the Chair or Vice Chair of the City of Virginia Beach Development Authority is hereby authorized to execute a lease for seven months, with four (4) one-year renewal terms, with Dawley Family Farms, LLC for the VBDA Premises, in accordance with the Summary of Terms attached hereto as Exhibit A, and made a part hereof, and such other terms, conditions or modifications deemed necessary and sufficient by the Chair and in a form deemed satisfactory by the City Attorney.

[SIGNATURES ON FOLLOWING PAGE]

Adopted this 19th day of April, 2022, by the City of Virginia Beach Development Authority.

CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By: 
Secretary/Assistant Secretary

APPROVED AS TO CONTENT:



Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:



City Attorney

EXHIBIT A
SUMMARY OF TERMS

LESSOR: City of Virginia Beach Development Authority (the “Authority”) and City of Virginia Beach (the “City”) and

LESSEE: Dawley Family Farms, LLC, a Virginia limited liability company

TOTAL

PREMISES: 45+/- acres of land located off Landstown Road, with 19.4+/- acres being owned by the Authority (Part of GPIN: 1494-17-0763) and 25.6+/- acres being owned by the City (Part of GPIN: 1494-34-4919).

TERM: Initial Term: May 1, 2022 – December 31, 2022, with 4 one-year renewal options (each option: January 1st through December 31st)

RENT: \$1,600.00 annually (approx. \$35.55 per acre) for the Total Premises, with rent for the Initial Term being prorated. Rent will be paid to the City.

RIGHTS AND RESPONSIBILITIES OF LESSEE:

- Pay all applicable leasehold taxes.
- Use Total Premises for agricultural purposes such as farming, and for no other purpose.
- Maintain Total Premises in a good farm-like manner, including prevention of deterioration or waste accumulation.
- Keep all equipment and improvements placed upon Total Premises in a safe, clean and orderly condition.
- Purchase and maintain insurance coverage acceptable to the Lessor.

RIGHTS AND RESPONSIBILITIES OF LESSOR:

- The Authority only has authority to lease the VBDA Premises.
- The City only has authority to lease the City Premises.
- Lessor may enter upon the Total Premises without written prior notice, after it has been determined that an emergency exists.

TERMINATION:

- The Authority and/or the City may terminate the lease as to its portion of the Total Premises upon: (a) thirty (30) days’ notice if Lessee fails to maintain that portion in a farm-like manner or allows that portion to deteriorate; and (b) ninety (90) days’ notice for any reason, subject to a mutually agreed upon sum to cover any planted crop unable to be harvested due to the Authority’s and/or the City’s termination.

A RESOLUTION APPROVING THE PROVISION
OF FAÇADE IMPROVEMENT GRANTS

WHEREAS, the City of Virginia Beach Development Authority (the "Authority") was created pursuant to Chapter 643 of the Acts of Assembly of 1964, as amended (the "Act");

WHEREAS, one of the primary purposes of the Act is to enable development authorities "to promote industry and develop trade by inducing manufacturing, industrial, governmental and commercial enterprises to locate in or remain in the Commonwealth...";

WHEREAS, pursuant to §6 of the Act, the Authority has the power, *inter alia*, "to sell, exchange, donate and convey any or all of its facilities or other properties whether realty or personalty whenever the Authority shall find any such action to be in furtherance of the purposes for which the Authority was organized";

WHEREAS, pursuant to §7 of the Act, "the Authority may foster and stimulate the development of industry in the area within its jurisdiction... [and] may accept, and expend for the purposes stated above, money from any public or private source...";

WHEREAS, pursuant to §10 of the Act, the City of Virginia Beach (the "City") "is authorized and empowered to make appropriations and to provide funds for the operation of the Authority and to further its purposes";

WHEREAS, the economic development goals and objectives of the City include achieving a higher ratio of nonresidential to residential real estate assessments, investing in land and infrastructure to benefit future economic growth, and maximizing the return of economic development efforts through the development and implementation of programs and strategies that facilitate new business investment and encourage retention and expansion activities, thereby improving the overall quality of life in the City;

WHEREAS, pursuant to the authority and empowerment set forth in §10 of the Act, the Authority administers the Façade Improvement Grant (FIG) program (the "Program") to assist small, locally owned and operated business located in any commercial or industrial zoned area with the City of Virginia Beach (each business, an "Applicant");

WHEREAS, the Program is a matching grant program to reimburse businesses up to \$10,000 for the cost of impactful improvement to the exterior building, site and outdoor dining areas;

WHEREAS, a grant review committee (the "Grant Review Committee") evaluates and ranks each application submitted and makes recommendations to the Authority for consideration;

WHEREAS, the Grant Review Committee has reviewed and ranked the applications and recommends that the Authority approve grants under the Program to the Applicants and in the amounts as shown on Exhibit A attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. That the Authority hereby finds (a) that the provision of each grant will primarily serve the valid public purpose and will foster and stimulate economic development in the City; and (b) is in furtherance of the purposes for which the Authority was created.

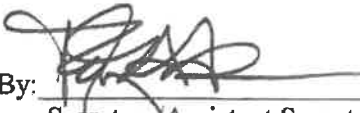
2. That based on the recommendations of the Grant Review Committee, the Authority hereby approves reimbursement grants under the Program in the Applicants and in the amounts as specified on Exhibit A, attached hereto and made a part hereof.

4. That funds will be dispersed only after (a) completion of the improvements for which funds are authorized and (b) final inspection by staff to ensure consistency with the Program, including the expenditures as stated in the application.

6. The Authority may terminate this award and decline to pay any unpaid grant funds if the Applicant has not completed the improvements within six (6) months from the date of this Resolution.

Adopted this 19th day of April, 2022, by the City of Virginia Beach Development Authority.


CITY OF VIRGINIA BEACH
DEVELOPMENT AUTHORITY

By: 
Secretary Assistant Secretary

APPROVED AS TO CONTENT:


Economic Development

APPROVED AS TO LEGAL
SUFFICIENCY:


City Attorney

**RESOLUTION OF THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY,
PROVIDING INITIAL APPROVAL OF THE ISSUANCE OF UP TO \$164,000,000 OF
REVENUE BONDS FOR THE BENEFIT OF WESTMINSTER-CANTERBURY ON
CHESAPEAKE BAY**

WHEREAS, the City of Virginia Beach Development Authority (the "Authority"), is empowered by Chapter 643 of the Acts of Assembly of 1964, as amended (the "Act"), to issue its revenue bonds to protect and promote the health and welfare of the inhabitants of the Commonwealth of Virginia (the "Commonwealth") by assisting in the financing and refinancing of medical facilities and facilities for the residence or care of the aged, owned and operated by organizations which are exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Authority has received a request from Westminster-Canterbury on Chesapeake Bay, a Virginia nonstock corporation ("Westminster-Canterbury"), whose address is 3100 Shore Drive, Virginia Beach, Virginia 23451 (the "Community"), to issue its revenue bonds (the "Bonds"), in one or more series at one time or from time to time, to provide funds to Westminster-Canterbury:

(1) to finance and refinance the acquisition, design, construction and equipping of an up to seven-story assisted living and memory care building with additional licensed assisted living apartments, memory support apartments, adult care program and dining venues and other amenities over one level of parking; and

(2) to finance and refinance other capital projects at the Community all within the existing structures or existing parking facilities located at the Community and amounts required for reserves, working capital, capitalized interest, costs of issuance and other financing expenses related to the issuance of the Bonds. Items (1) and (2) are collectively referred to as the "Plan of Finance"; and

WHEREAS, preliminary plans for the Plan of Finance have been described to the Authority and a public hearing has been held as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended; and

WHEREAS, Westminster-Canterbury has represented that the estimated cost of undertaking the Plan of Finance will require an issue of revenue bonds, in one or more series at one time or from time to time, in the aggregate principal amount not to exceed \$164,000,000; and

WHEREAS, (1) no Commissioner of the Authority is an officer or employee of Westminster-Canterbury or the City of Virginia Beach, Virginia, (2) each Commissioner has, before entering upon his or her duties during his or her present term of office, taken and subscribed to the oath prescribed by Section 49-1 of the Code of Virginia of 1950, as amended and (3) at the time of their appointments and at all times thereafter, including the date hereof, all of the Commissioners of the Authority have satisfied the residency requirements of the Act; and

WHEREAS, no Commissioner of the Authority has any personal interest or business interest in Westminster-Canterbury, the Bonds, or any of the transactions contemplated therein or

has otherwise engaged in conduct prohibited under the Conflict of Interests Act, Chapter 31, Title 2.2 of the Code of Virginia of 1950, as amended, in connection with this resolution or any other official action of the Authority in connection therewith.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. The Authority hereby finds and determines that the Plan of Finance will be in the public interest and will promote the commerce, safety, health, welfare, convenience or prosperity of the Commonwealth, the City of Virginia Beach, Virginia and their citizens and in particular, will promote the providing of health care facilities and other facilities for the residence and care of the aged in accordance with their special needs.

2. The Authority hereby agrees to assist Westminster-Canterbury in undertaking the Plan of Finance by issuing its Bonds upon terms and conditions mutually agreeable to the Authority and Westminster-Canterbury. The Bonds will be issued pursuant to documents satisfactory to the Authority. The Bonds may be issued in one or more series at one time or from time to time.

3. It having been represented to the Authority that it is necessary to proceed immediately with the Plan of Finance, and the planning therefor, the Authority hereby agrees that Westminster-Canterbury may proceed with the Plan of Finance and take such other steps as it may deem appropriate in connection with the Plan of Finance, provided, however, that nothing in this resolution shall be deemed to authorize Westminster-Canterbury to obligate the Authority without the Authority's consent in each instance to the payment of any moneys or the performance of any acts in connection with the Plan of Finance. The Authority hereby agrees that Westminster-Canterbury may be reimbursed from the proceeds of the Bonds for all expenditures and costs so incurred by it, provided such expenditures and costs are properly reimbursable under the Act and applicable federal laws.

4. At the request of Westminster-Canterbury, the Authority hereby approves McGuireWoods LLP, Richmond, Virginia, as Bond Counsel in connection with the issuance of the Bonds.

5. All costs and expenses in connection with the undertaking of the Plan of Finance, including the fees and expenses of Bond Counsel, shall be paid by Westminster-Canterbury or, to the extent permitted by applicable law, from the proceeds of the Bonds. If for any reason such Bonds are not issued, it is understood that all such expenses shall be paid by Westminster-Canterbury and that the Authority shall have no responsibility therefor.

6. The Authority hereby recommends that the City Council of the City of Virginia Beach, Virginia (the "Council") approve the issuance of the Bonds for the purpose of undertaking the Plan of Finance within 60 days of the date of the adoption of this resolution.

7. Westminster-Canterbury shall indemnify and save harmless the Authority, its officers, Commissioners, counsel, employees and agents, from and against all liabilities,

obligations, claims, damages, penalties, fines, losses, costs and expenses in any way connected with Westminster-Canterbury or the issuance of the Bonds.

8. No Bonds may be issued pursuant to this resolution until such time as the issuance of the Bonds has been approved by the Council and a final resolution is approved by the Authority.

9. This resolution shall be effective immediately and shall continue in full force and effect for a period of one year after adoption, unless specifically extended by the Authority.

10. The Authority directs the Secretary to submit to the Council this resolution, Westminster-Canterbury's Fiscal Impact Statement, and a summary of the public hearing held by the Authority, which constitutes the recommendation of the Authority that the Council approve and concur in the Plan of Finance.

[Signature Certificate Follows]

CERTIFICATE

The undersigned Secretary of the City of Virginia Beach Development Authority (the "Authority"), hereby certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Commissioners of the Authority at a meeting duly called and held on April 19, 2022, in accordance with law, and that such resolution has not been repealed, revoked, rescinded or amended but is in full force and effect on the date hereof.

WITNESS the following signature and seal of the Authority as of April 19, 2022



Secretary

[SEAL]

**RESOLUTION OF THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY
AUTHORIZING THE ISSUANCE AND SALE OF REVENUE BONDS IN AN AMOUNT
NOT TO EXCEED \$164,000,000 FOR THE BENEFIT OF WESTMINSTER-
CANTERBURY ON CHESAPEAKE BAY BY PUBLIC SALE**

WHEREAS, the City of Virginia Beach Development Authority (the "Authority"), a political subdivision of the Commonwealth of Virginia (the "Commonwealth"), is empowered by Chapter 643 of the Acts of Assembly of 1964, as amended (the "Act"), to issue its revenue bonds to protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the financing and refinancing of medical facilities and facilities for the residence or care of the aged, owned and operated by organizations which are exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Authority has received a request from Westminster-Canterbury on Chesapeake Bay, a Virginia nonstock corporation ("Westminster-Canterbury"), whose address is 3100 Shore Drive, Virginia Beach, Virginia 23451 (the "Community") requesting the Authority to issue and sell its revenue bonds (the "Bonds") from time to time and in one or more series, pursuant to the Act, to provide funds to Westminster-Canterbury:

(1) to finance and refinance the acquisition, design, construction and equipping of an up to seven-story assisted living and memory care building with additional licensed assisted living apartments, memory support apartments, adult care program and dining venues and other amenities over one level of parking; and

(2) to finance and refinance other capital projects at the Community all within the existing structures or existing parking facilities located at the Community and amounts required for reserves, working capital, capitalized interest, costs of issuance and other financing expenses related to the issuance of the Bonds. Items (1) and (2) are collectively referred to as the "Plan of Finance"; and

WHEREAS, on April 19, 2022, an inducement resolution was adopted by the Authority and a public hearing was held as required by Section 147(f) of the Code, and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"); and

WHEREAS, the Authority desires to authorize the issuance of the Bonds, and the documents evidencing and securing the Bonds, subject to the approval of the City Council of the City of Virginia Beach, Virginia (the "Council"), as required by Section 15.2-4906(C) of the Virginia Code; and

WHEREAS, the Authority will issue the Bonds pursuant to a Bond Trust Indenture (the "Bond Indenture"), between the Authority and a bond trustee to be selected by Westminster-Canterbury (the "Bond Trustee"); and

WHEREAS, the Authority will loan the proceeds of the Bonds to Westminster-Canterbury pursuant to a Loan Agreement (the "Loan Agreement"), among the Authority and Westminster-Canterbury, and Westminster-Canterbury will evidence its payment obligations with respect to the

Bonds by a promissory note from Westminster-Canterbury to the Authority in the principal amount equal to the principal amount of the Bonds (the "Note"); and

WHEREAS, the Bonds are expected to be offered for sale by B.C. Ziegler and Company ("Ziegler"), or a group of underwriters managed by such firm (collectively the "Underwriters"), pursuant to a Bond Purchase Agreement (the "Bond Purchase Agreement") dated the date of its execution and delivery, among the Authority, Westminster-Canterbury and Ziegler on behalf of itself or as a representative for the Underwriters; and

WHEREAS, the Bonds will be offered for sale by the Underwriters and there will be a disclosure document in the form of an official statement in preliminary form to be dated the date of its delivery (the "Preliminary Official Statement"), prepared under the direction of Westminster-Canterbury in connection with the offering and sale of the Bonds; and

WHEREAS, the Authority will assign the Note to the Bond Trustee pursuant to the Bond Indenture; and

WHEREAS, there have been presented to this meeting drafts of the following instruments (the "Authority Documents") which the Authority proposes to execute or approve to carry out the issuance and sale of the Bonds, copies of which instruments shall be filed with the records of the Authority:

- (a) Bond Indenture, including the forms of the Bonds;
- (b) Loan Agreement;
- (c) Note, with the Authority's assignment thereof;
- (d) Bond Purchase Agreement; and
- (e) Preliminary Official Statement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF VIRGINIA BEACH DEVELOPMENT AUTHORITY:

1. The Authority hereby finds and determines that the Plan of Finance will be in the public interest and will promote the commerce, safety, health, welfare, convenience or prosperity of the Commonwealth, and the City of Virginia Beach, Virginia (the "City") and their citizens and in particular will promote the provision of health care facilities and other facilities for the residence and care of the aged in accordance with their special needs.

2. The issuance of the Bonds, to be styled the "City of Virginia Beach Development Authority, Residential Care Facility Revenue Bonds (Westminster-Canterbury on Chesapeake Bay)" (with an appropriate series designation) for the purpose of financing the costs associated with the Plan of Finance is hereby authorized and approved, subject to the approval of the Council, as required by Section 15.2-4906(C) of the Virginia Code.

3. The Bonds shall be issued in a principal amount not to exceed \$164,000,000, shall have a maximum true interest cost of not more than 6.00% per annum, shall mature no later than 40 years from their issuance, and shall be substantially in the form attached as an exhibit to the Bond Indenture and shall be issued upon the terms set forth in the Bond Indenture.

4. The Bonds and the other Authority Documents are hereby approved in substantially the forms submitted to this meeting, with such changes as may be approved, with the advice of counsel to the Authority, by the Chair or Vice Chair of the Authority, whose approval shall be evidenced conclusively by the execution and delivery of the Authority Documents.

5. The execution, delivery and performance by the Authority of the Authority Documents are hereby authorized and approved. The execution of the Bonds and delivery against payment therefor, the amount of such payment to be disbursed in accordance with the terms of the Bond Indenture, are authorized.

6. The Chair and the Vice Chair of the Authority, either of whom may act, are each authorized to execute, on behalf of the Authority, the Bonds and the other Authority Documents, and, if required, the Secretary and Assistant Secretary of the Authority, either of whom may act, are each authorized to affix the seal of the Authority to the Bonds and the other Authority Documents (as needed) and to attest such seal.

7. The use and distribution by the Underwriters of the Preliminary Official Statement in the form on file with the Authority are in all respects authorized, ratified and approved. For purposes of Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12"), the Chair or Vice Chair of the Authority, either of whom may act, are authorized to deem the Preliminary Official Statement relating to the Bonds final except for information permitted to be omitted under paragraph (b)(1) of such Rule. The Chair and Vice Chair of the Authority, either of whom may act, are authorized and directed to execute and deliver the Authority's approval of the final official statement (the "Official Statement") upon approval of its form, terms and conditions. Such officer's execution shall constitute conclusive evidence of his approval of such form, terms and conditions. Execution of the final Official Statement shall constitute conclusive evidence that the Official Statement has been deemed final within the meaning of Rule 15c2-12.

8. The use and distribution by the Underwriters of the Official Statement are hereby authorized and approved. The Official Statement shall be in substantially the form of the Preliminary Official Statement submitted to this meeting, which is hereby approved, with such completions, omissions, insertions and changes as may be approved by the Chair or Vice Chair, either of whom may act, and whose execution thereof shall constitute conclusive evidence of his or her approval of such form, terms and conditions.

9. The Chair and the Vice Chair of the Authority, either of whom may act, are authorized to execute and deliver on behalf of the Authority such instruments, documents or certificates, including but not limited to a tax compliance certificate and an Internal Revenue Service Form 8038, and to do and perform such things and acts, as they shall deem necessary or appropriate to carry out the transactions authorized by this Resolution or contemplated by the Bonds, the other Authority Documents or such instruments, documents or certificates, and all of

the foregoing, previously done or performed by such officers of the Authority, are in all respects approved and confirmed.

10. Each officer of the Authority is authorized to execute and deliver on behalf of the Authority such instruments, documents or certificates, and to do and perform such things and acts, as he or she deems necessary or appropriate to carry out the transactions authorized by this Resolution or contemplated by the Bonds, the other Authority Documents or such instruments, documents or certificates, and all of the foregoing, previously done or performed by such officers of the Authority, are in all respects approved, ratified and confirmed.

11. The Bonds and the other Authority Documents shall provide that neither the Commonwealth nor any political subdivision thereof, including the Authority and the City, shall be obligated to pay the obligations under the Bonds and the other Authority Documents except from the revenues, receipts and payments pledged therefor, and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof, including the Authority and the City, is pledged to the payment of such obligations. All costs and expenses of the Authority in connection with the issuance of the Bonds and actions taken pursuant to this Resolution, including the fees and expenses of counsel to the Authority, will be paid by Westminster-Canterbury or paid from the proceeds of the Bonds.

12. The Authority determines that the issuance of the Bonds in accordance with the terms of the Bond Indenture and all actions of the Authority contemplated thereunder will be in furtherance of the purposes for which the Authority was organized.

13. No Bonds may be issued pursuant to this Resolution until such time as the issuance of the Bonds has been approved by the Council.

14. Subject to paragraph 13, this Resolution shall take effect immediately upon its adoption.

CERTIFICATE

The undersigned Secretary of the City of Virginia Beach Development Authority (the "Authority"), hereby certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Commissioners of the Authority at a meeting duly called and held on April 19, 2022, in accordance with law, and that such resolution has not been repealed, revoked, rescinded or amended but is in full force and effect on the date hereof.

WITNESS the following signature and seal of the Authority as of April 19, 2022.



Secretary

[SEAL]