

Attendance

Members:

• Josh Gaita, Chair	Chancellor District (McLaughlin)	Present	
• Marc G. Smith, Vice Chair	Battlefield District (Yakabouski)	Present	
• Bryan Moody	Berkeley District (Marshall)	Present	
• Garrett Garner	Courtland District (Ross)		Absent
• Hart Rutherford	Lee Hill District (Skinner)	Present	
• Bruce Davis	Livingston District (Benton)	Present	
• Donn Hart	Salem District (Trampe)	Present	

Staff and Guests:

- Brendan Hefty, Hefty & Wiley, P.C.
- Michael Graff, McGuire Woods, LLC
- Mark Taylor, County Administrator
- Tom Rumora, Director of Economic Development and Tourism
- Debbie Sanders, Deputy Director of Economic Development and Tourism
- Jennifer Scott, Economic Development Specialist
- Courtney Owens, Project Management Coordinator
- Ben Proffitt, Economic Development Intern

Call to Order

Mr. Gaita called the meeting to order at 8:00 AM and confirmed a quorum.

Closed Session

Mr. Moody moved that the EDA convene in closed session pursuant to section 2.2-3711(A)(5) of the Code of Virginia for discussion of 4 items concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the County. Mr. Hart disclosed that he had a financial interest in one of the closed session items and would recuse himself from that discussion. The motion was seconded by Mr. Davis and passed by the following recorded votes:

Ayes: 6 Mr. Gaita, Mr. Rutherford, Mr. Moody, Mr. Davis, Mr. Smith, Mr. Hart

Nays: 0

Absent: 1 Mr. Garner

Abstain: 0

Mr. Moody moved that the EDA certify by roll call vote that only the matter identified in the motion to convene in closed session and lawfully exempted under the Virginia Freedom of Information Act was heard, discussed, or considered. Mr. Davis seconded the motion, which passed by the following recorded votes:

Ayes: 6 Mr. Gaita, Mr. Rutherford, Mr. Moody, Mr. Davis, Mr. Smith, Mr. Hart

Nays: 0

Absent: 1 Mr. Garner

Abstain: 0

Southpoint Building Agreement

The EDA authorized Mr. Hefty to prepare a Usage Agreement to accommodate the Office of Elections to locate their offices to the Southpoint Building up to a period of 5 years adjacent to the Visitors Center.

Mr. Davis moved that the EDA authorize Mr. Hefty to prepare a Usage Agreement for the Office of Elections to locate and operate in the Southpoint Building for a period of 5 years. Mr. Rutherford seconded the motion, which passed by the following recorded votes:

Ayes: 6 Mr. Gaita, Mr. Hart, Mr. Rutherford, Mr. Moody, Mr. Davis, Mr. Smith

Nays: 0

Absent: 1 Mr. Garner

Abstain: 0

Back 40 Agreement

Pursuant to the Performance Agreement set forth with idX Corporation in April 2017, the Back 40, is a subdivided parcel from 11032 Tidewater Trail consisting of approximately 48 acres, that was purchased by the County and EDA for future economic development investment for the County. To ensure the property is maintained to its highest and best use, the EDA requested Mr. Hefty to prepare an Agreement stating the County accepts all responsibility on the Back 40 tract including all property management duties.

Mr. Moody moved that the EDA authorize Mr. Hefty to prepare an Agreement for the Back 40 stating the County accepts all responsibility for the Back 40 Property including all property management duties. Mr. Rutherford seconded the motion, which passed by the following recorded votes:

Ayes: 6 Mr. Gaita, Mr. Hart, Mr. Rutherford, Mr. Moody, Mr. Davis, Mr. Smith
Nays: 0
Absent: 1 Mr. Garner
Abstain: 0

Approval of HDT Performance Agreement - First Amendment

HDT entered into a performance agreement dated January 26, 2017. Two technical changes were needed to align with HDT's facility lease. The changes include extending the deadline for the Company to receive a grant for permit fees paid to the County and further amend the Performance Agreement to reflect the fact that the Company will remain obligated to stay in the County for a period of ten years, but signed a ten-year lease with an option to renew for two additional five-year periods, with an option to opt-out of the lease after the first seven (7) years.

Mr. Rutherford moved that the EDA approve the first amendment to the HDT Performance Agreement. Mr. Moody seconded the motion, with Donn Hart abstaining, which passed by the following recorded votes:

Ayes: 5 Mr. Gaita, Mr. Rutherford, Mr. Moody, Mr. Davis, Mr. Smith
Nays: 0
Absent: 1 Mr. Garner
Abstain: 1 Mr. Hart

Approval of PAE National Security Solutions, LLC Performance Agreement – First Amendment

A-T Solutions entered into performance agreement dated July 17, 2014. A-T Solutions was purchased by PAE in July 2015 and assumed the ongoing performance obligations and terms and conditions of the Agreement. As a result of the acquisition the amended terms of the Agreement are as follows:

1. The Definition of "Company Facilities" is hereby deleted and replaced as follows: "Company Facilities' means the real and personal property located at the following location in Spotsylvania County: 5160 Lad Land Drive, Fredericksburg, VA 22407."
2. The definitions of "New Job" and "Retained Job" are hereby deleted in their entirety. The definition of "Maintain" is hereby amended to delete the terms "New Job or Retained Job" and replace it with the term "Job as hereinafter defined herein."
3. Section 3 of the Agreement is hereby deleted in its entirety and replaced with the following:

"In exchange for the Grant, the Company agrees to fully comply with each and every one of the following covenants under the schedules set forth below:

- 3.1 The Company agrees to maintain its business operations in the Company Facilities located in the County of Spotsylvania through December 31, 2027.
- 3.2 The Company agrees to Maintain at least 75 Jobs each year at the Company Facilities from the Effective date of this Amendment through December 31, 2027. "Job" means each regular full-time employment of an indefinite duration at the Company Facilities for which the standard Company fringe benefits are paid by the Company for the employee. Each Job must have a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the Company's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680

- 3.3 hours per year. Seasonal or temporary positions and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as a Job.
- 3.4 The Company agrees to maintain an aggregate annual payroll of \$6,800,000.00, exclusive of benefits, as measured by the Jobs at the Company Facilities from January 1st through December 31st of each year from the Effective Date of this Amendment through December 31, 2027.
- 3.5 The Company shall make capital expenditures of not less than \$1,000,000.00 in the Company Facilities prior to December 31, 2021.
- 3.6 The Company agrees to provide due consideration to tenants referred by the County when the Company leases any space at Company Facilities.
- A. Section 2.1(B) of the Agreement is deleted in its entirety. The Company hereby waives any and all rights to the economic incentive grant it may have had for permit fees valued at \$20,000.00 as outlined in Section 2.1(B) of the Agreement and forever releases the County and the EDA and holds them harmless from and against any and all claims in any way related to Section 2.1 (B) of the Agreement.
- B. Section 5.1(b) of the Agreement is hereby deleted in its entirety and replaced with the following: "Failure to comply with any of the performance obligations described in Section 3 of the Agreement, as amended, will be considered an Event of Default."
- C. Section 5.2 of the Agreement is hereby deleted in its entirety and replaced with the following: "5.2 Termination of Grants. 5.2.1 In the case of an occurrence of and Event of Default for failure to meet Section 3.1, Section 3.4, or Section 3.5, the Grant provisions of this Agreement shall terminate immediately and neither the County nor the Authority shall have any further obligation relating thereto and the Company shall no longer be eligible for any grant payments hereunder, provided, however, that they Company will be provided with prior written notice and 30 days opportunity to cure for Section 3.4. Furthermore, the Company shall be subject to the repayment obligations in Section 5.3. 5.2.2 In the case of an occurrence of and Event of Default for failure to meet Section 3.2 or Section 3.3, the Company shall be subject to the repayment obligations in Section 5.3; however this Agreement shall not be terminated for the Company's failure to meet Section 3.2 or Section 3.3."
- D. Section 5.3 of the Agreement is hereby deleted in its entirety and replaced with the following: "5.3.1 Upon an Event of Default for failure to meet Section 3.1, Section 3.4, or Section 3.5, the Company shall repay to the Authority any and all amounts paid to it, or its predecessor in interest, pursuant to this Agreement as of the date upon which the Event of Default occurs and upon written demand by the Authority to the Company for such repayment. Notwithstanding the foregoing, the Authority may agree, upon the written request of the County Administrator of the County of Spotsylvania, Virginia, to prorate the amount the Company shall be required to repay under this section at the rate of \$14,100 per year until 2027. By way of example regarding an allowed proration, if the Company defaults in 2018 or earlier, the Company will owe \$141,000.00. If the Company defaults in 2027, the Company shall owe \$14,100.00. 5.3.2 Upon an Event of Default for failure to meet Section 3.2 or Section 3.3 for any year, the Company shall upon written demand by the Authority to the Company for such repayment, repay to the Authority a prorated amount of the Grant for the year in which the Company failed to meet 3.2 or Section 3.3. By way of example, if the Company fails to either maintain the number of jobs required in Section 3.2 or the annual payroll amount in Section 3.3, the Company shall owe the Authority and shall repay to the Authority the amount of \$14,100.00 for that year it failed to meet either Section 3.2 or Section 3.3. For each year the Company Maintains at least 90% of the Jobs required in Section 3.2 while still maintaining its aggregate annual payroll as required in Section 3.3, no repayment shall be required hereunder."

- E. Section 6 of the Agreement is hereby deleted in its entirety and replaced with the following: “The Company shall provide, at their expense, detailed verification satisfactory to the County and the Authority of the Company’s progress on the performance obligations described in Section 3. Such progress reports will be provided annually, starting July 1, 2018, and at such other times as the County or the Authority may require.”
- F. The following language is added as Section 7.14 to the Agreement: “If the EDA brings an action to enforce its rights under this Agreement, the EDA may recover its expenses (including reasonable attorneys’ fees) incurred in connection with the action and any subsequent appeal.”
- G. The following language is added as Section 7.15 to the Agreement: “The Grant is subject to the Company being current on all taxes and fees it owes the County for any reason. If the Company is delinquent on any payment of any tax or fee owed to the County, it shall be an Event of Default as set out in Section 5.1 of the Agreement, provided, however, that the Company will be provided with prior notice and 30 days opportunity to cure an Event of Default under this Section 7.15”
- H. The following language is added as Section 7.16 to the Agreement: “The Company shall comply with all applicable County, State and Federal laws and regulations. If the Company is in violation of any applicable County, State and Federal laws and regulations, it shall be an Event of Default as set out in Section 5.1 of the Agreement, provided, however, that the Company will be provided with prior notice and 30 days opportunity to cure an Event of Default under this Section 7.16.”

Mr. Davis moved that the EDA approve the Amended Performance Agreement for PAE National Security Solutions, LLC. Mr. Moody seconded the motion which passed by the following recorded votes:

Ayes: 6 Mr. Gaita, Mr. Hart, Mr. Rutherford, Mr. Moody, Mr. Davis, Mr. Smith
Nays: 0
Absent: 1 Mr. Garner
Abstain: 0

Print Mail Communications (PMC) Performance Agreement

PMC is a direct mail business that relocated from Northern Virginia to the County in July 2013 and entered into a performance agreement for a period of 10 years. The Agreement consists of BPOL and permit fee reimbursements with the option to renew on July 1, 2018 for an additional five years. The EDA reviewed the Agreement with no changes.

New Business

Mr. Gaita asked the EDA to consider bi-monthly meetings versus quarterly beginning in June. The EDA will consider changing the frequency of the meetings at their next regular meeting on April 26, 2018.

Adjournment

The next EDA meeting will take place on April 26, 2018 at 8:00 AM. On a motion by Mr. Moody, seconded by Mr. Smith, and carried unanimously; the meeting was adjourned at 10:15 AM.