

**RESOLUTION APPROVING CONTINUED FORBEARANCE  
ON LOAN TO VANGUARD LANDING, INC.**

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, 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, on December 17, 2013 the Authority adopted a resolution authorizing a loan to Vanguard Landing, Inc., a Virginia non-profit corporation ("Vanguard Landing") to provide funding for Vanguard Landing's purchase of approximately 74.54 acres of property off Princess Anne Road, located south of the intersection of Princess Anne Road and Sandbridge Road (the "Property");

WHEREAS, Vanguard Landing proposed to develop the Property into a mixed-use facility consisting of residential, retail and commercial components for citizens with intellectual disabilities (the "Project");

WHEREAS, on February 13, 2014, the Authority made a loan in the amount of \$2,850,406.00 to Vanguard Landing (the "Loan") and Vanguard Landing acquired the Property;

WHEREAS, the Loan is evidenced by a promissory note dated February 13, 2014 (the "Promissory Note") and secured by a deed of trust also dated February 13, 2014 and recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, as Instrument No. 2014022000014460 (the "Deed of Trust");

WHEREAS, under the terms of the Promissory Note, Vanguard Landing was required to have completed construction of at least one (1) building at the Project on or before February 13, 2019, and (2) submit an annual written report of its progress towards obtaining necessary approvals for the Project;

WHEREAS, to date, Vanguard Landing has not commenced construction on any buildings for the Project and remains in default under the Promissory Note;

WHEREAS, on March 18, 2021, the Authority gave Vanguard Landing notice of the occurrence of an Event of Default under the Promissory Note but agreed to forbear any collection efforts for sixty (60) days;

WHEREAS, on May 18, 2021, the Authority agreed to continue its forbearance until after the June 15, 2021 Authority meeting;

WHEREAS, on June 15, 2021, the Authority agreed to continue its forbearance for twelve months on the condition that (1) Vanguard Landing make a \$500,000.00 payment of principal to the Authority within sixty days of June 15, 2021, and (2) Vanguard Landing submit quarterly written reports regarding its site plan approval and financing efforts (collectively, the “2021 Forbearance Conditions”);

WHEREAS, Vanguard Landing has complied with the Forbearance Conditions;

WHEREAS, Vanguard Landing also made the first required payment of principal of \$114,016.24.00 as required under the Promissory Note, bringing the outstanding principal owed to \$2,236,389.76;

WHEREAS, while it has made progress, and complied with the Forbearance Conditions, Vanguard Landing has not yet obtained its site plan approval or financing sufficient to construct its facility, and has requested a further six-month forbearance; and

WHEREAS, the Authority is of the opinion that a further forbearance is reasonable and consistent with the goals of the Authority.

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

1. That the Authority hereby approves continued forbearance until December 31, 2022 with respect to any and all Events of Default on the terms and conditions set forth in the Summary of Terms, attached hereto as Exhibit A and incorporated herein.

2. The Chair or Vice-Chair are hereby authorized to execute such documents as may be necessary to evidence the continued forbearance of the Authority so long as such documents are consistent with the Summary of Terms, are acceptable to the Chair or Vice-Chair, and are in a form deemed satisfactory by the City Attorney.

Adopted this 21<sup>th</sup> day of June, 2022, by the City of Virginia Beach Development Authority.


APPROVED AS TO CONTENT:

  
Economic Development

CITY OF VIRGINIA BEACH  
DEVELOPMENT AUTHORITY

By:   
Secretary / Assistant Secretary

APPROVED AS TO LEGAL  
SUFFICIENCY:

  
City Attorney

**EXHIBIT A**

**SUMMARY OF TERMS**

- Lender: The City of Virginia Beach Development Authority (the “Authority”)
- Borrower: Vanguard Landing, Inc., a Virginia non-profit corporation
- Outstanding Loan Amount: \$2,236,389.76
- Existing Defaults: Failure to have at least one residential building constructed at the Project within timeframe set forth in Promissory Note.
- Forbearance: Until December 31, 2022.
- Conditions for Continued Forbearance:
1. Borrower to make quarterly written reports to Authority describing all progress in:
    - a. Obtaining site plan approval;
    - b. Obtaining debt financing (currently contemplated through Virginia Housing); and
    - c. Raising sufficient funds to satisfy capital/equity requirements.
  2. Borrower to have obtained loan approval sufficient, when added to available equity, to construct the Project.
  3. Remaining funds owed to the Authority shall be paid at closing of debt financing.

A RESOLUTION APPROVING THE PROVISION  
OF \$54,200 IN ECONOMIC DEVELOPMENT  
INVESTMENT PROGRAM FUNDS TO CAVALIER  
VENTURES, LLC (D/B/A TARNISHED  
TRUTH DISTILLING COMPANY)

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, the City established the Economic Development Investment Program ("EDIP") as part of its overall effort to enhance the City's ability to accomplish these goals and objectives;

WHEREAS, pursuant to the authority and empowerment set forth in §10 of the Act, City Council authorized the transfer of funds in the EDIP account to the Authority and the provision of future EDIP appropriations to the Authority to enable the Authority to more effectively continue its efforts to foster and stimulate economic development by inducing businesses to locate or remain in the City;

WHEREAS, the Department of Economic Development (the "Department"), acting on behalf of the Authority, has induced Cavalier Ventures, LLC (d/b/a Tarnished Truth Distilling

Company), a Virginia limited liability company (the “Recipient”), to locate its operation at 2621 Quality Court, Virginia Beach, Virginia 23454 (the “Property”);

WHEREAS, the inducement includes an agreement to recommend the award to Recipient of \$54,200.00 in EDIP funds to underwrite a portion of costs associated with the location of Recipient’s operation at the Property;

WHEREAS, Recipient has represented in its application and the Director of Economic Development (the “Director”), upon review of the application submitted by Recipient, has determined and has advised the Authority it will meet at least one of the following performance criteria (the “Performance Criteria”) within thirty-six (36) months after the date of this Resolution.

- (a) Tax Revenues: The net amount of direct tax revenues returned to the City as a result of the Recipient’s operation will exceed the amount of EDIP Funds provided in thirty-six (36) months; and/or
- (b) Capital Investment: For every one dollar (\$1.00) of EDIP funds received, Recipient shall make a new capital investment of at least \$25.00; and

WHEREAS, the Director of Economic Development, upon review of the application submitted by Recipient, has determined and has advised the Authority that one or more of the following criteria has been met: (i) the net amount of direct tax revenues returned to the City as a result of Recipient’s operation will exceed the amount of EDIP funds provided in thirty-six (36) months, and/or (ii) for every one dollar (\$1.00) in EDIP funds provided, Recipient will spend at least twenty-five dollars (\$25.00) in new capital investment.

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

- 1. That the Authority hereby finds:
  - (a) that the provision of \$54,200.00 in EDIP funds to Cavalier Ventures, LLC (d/b/a Tarnished Truth Distilling Company), a Virginia limited liability company (the “Recipient”) will primarily serve the valid public purpose of fostering and stimulating economic development in the City; and
  - (b) that the provision of the EDIP funds is in furtherance of the purposes for which the Authority was created; and
  - (c) that it is unlikely the Recipient would expand its operation within the City without the stimulus of the EDIP award.
- 2. That the Authority hereby further finds that, based on the direct benefits to the City of Virginia Beach and its citizens resulting from the capital investment and employment opportunities to be generated by the Recipient as a result of its proposed location of its operation in Virginia Beach, the provision of \$54,200.00 in EDIP funds to the Recipient will only incidentally enure to the benefit of private interests.

3. That as of the date of this Resolution, the Recipient has not yet commenced expansion and/or construction of the proposed improvements.

4. That based on these findings, the Authority hereby approves the provision of \$54,200.00 in EDIP funds to the Recipient to underwrite a portion of the costs associated with the location of the Recipient's operation in Virginia Beach.

5. That disbursement of EDIP Funds by the Authority shall be at the discretion of the Director of the Department of Economic Development of the City of Virginia Beach or his designee (the "Director"), who shall be authorized to require appropriate verification as to qualifying expenditures.

6. That disbursement of EDIP funds to the Recipient shall be on a pro-rata reimbursement basis upon presentation of original receipts for qualifying expenditures to the Director. At the sole discretion of the Director, disbursement may not be prior to the completion of the Employment Opportunity Performance Criteria. Disbursement of EDIP funds shall be from time to time, but not more frequently than once per month, until fully expended.

7. That where EDIP funds are paid prior to complete satisfaction of any Performance Criteria, the Director may require the Recipient to enter into a Recapture Agreement approved by the Director. Such Recapture Agreement shall provide for the repayment by the Recipient of that portion of EDIP funds so disbursed prorated for the percentage of the Performance Criteria satisfied prior to the expiration of the Performance Period, and shall contain certain other provision as may be determined or required by the Director.

8. As a further condition of receiving the EDIP Funds, the Recipient shall conduct operations in the building at the Property (or such other locations in the City of Virginia Beach as may be agreed to by the Authority) for a minimum of five (5) years from the time of this award. Even if the requirement of paragraph 1 is met, for each year less than five that the Recipient conducts operations at the Property (or other agreed to location) upon written request from the Authority, the Recipient shall pay to the Authority, as EDIP recapture and not as a penalty, one-fifth (1/5) of the amount of the EDIP Funds provided. Such amount shall be paid within fifteen (15) business days after receipt of request from the Authority, and if not paid by such date, the amount due will bear interest at the rate of ten percent (10%) per annum from such date until paid, and such interest shall be payable by the Recipient in addition to the amount due as calculated above.

9. The Authority may terminate this award and decline to pay any unpaid funds if the recipient has not requested the full \$54,200.00 within thirty-six (36) months of the date of this Resolution.

[SIGNATURES ON FOLLOWING PAGE]

Adopted this 21<sup>st</sup> day of June, 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

A RESOLUTION APPROVING THE PROVISION  
OF \$20,000 IN ECONOMIC DEVELOPMENT  
INVESTMENT PROGRAM FUNDS TO  
UNITED PROPERTY ASSOCIATES, INC.

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, the City established the Economic Development Investment Program ("EDIP") as part of its overall effort to enhance the City's ability to accomplish these goals and objectives;

WHEREAS, pursuant to the authority and empowerment set forth in §10 of the Act, City Council authorized the transfer of funds in the EDIP account to the Authority and the provision of future EDIP appropriations to the Authority to enable the Authority to more effectively continue its efforts to foster and stimulate economic development by inducing businesses to locate or remain in the City;

WHEREAS, the Department of Economic Development (the "Department"), acting on behalf of the Authority, has induced United Property Associates, Inc., a Virginia corporation (the "Recipient"), to expand its operation at 301 Bendix Road, Virginia Beach, Virginia 23452 (the "Property");



WHEREAS, the inducement includes an agreement to recommend the award to Recipient of \$20,000.00 in EDIP funds to underwrite a portion of costs associated with the expansion of Recipient's operation at the Property;

WHEREAS, Recipient has represented in its application and the Director of Economic Development (the "Director"), upon review of the application submitted by Recipient, has determined and has advised the Authority it will meet at least one of the following performance criteria (the "Performance Criteria") within thirty-six (36) months after the date of this Resolution.

- (a) Tax Revenues: The net amount of direct tax revenues returned to the City as a result of the Recipient's operation will exceed the amount of EDIP Funds provided in thirty-six (36) months; and/or
- (b) Capital Investment: For every one dollar (\$1.00) of EDIP funds received, Recipient shall make a new capital investment of at least \$25.00; and

WHEREAS, the Director of Economic Development, upon review of the application submitted by Recipient, has determined and has advised the Authority that one or more of the following criteria has been met: (i) the net amount of direct tax revenues returned to the City as a result of Recipient's expanded operation will exceed the amount of EDIP funds provided in thirty-six (36) months, and/or (ii) for every one dollar (\$1.00) in EDIP funds provided, Recipient will spend at least twenty-five dollars (\$25.00) in new capital investment.

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

1. That the Authority hereby finds:
  - (a) that the provision of \$20,000.00 in EDIP funds to United Property Associates, Inc., a Virginia corporation (the "Recipient") will primarily serve the valid public purpose of fostering and stimulating economic development in the City; and
  - (b) that the provision of the EDIP funds is in furtherance of the purposes for which the Authority was created; and
  - (c) that it is unlikely the Recipient would expand its operation within the City without the stimulus of the EDIP award.
2. That the Authority hereby further finds that, based on the direct benefits to the City of Virginia Beach and its citizens resulting from the capital investment and employment opportunities to be generated by the Recipient as a result of its proposed expansion of its operation in Virginia Beach, the provision of \$20,000.00 in EDIP funds to the Recipient will only incidentally enure to the benefit of private interests.
3. That as of the date of this Resolution, the Recipient has not yet commenced expansion and/or construction of the proposed improvements.

4. That based on these findings, the Authority hereby approves the provision of \$20,000.00 in EDIP funds to the Recipient to underwrite a portion of the costs associated with the expansion of the Recipient's operation in Virginia Beach.

5. That disbursement of EDIP Funds by the Authority shall be at the discretion of the Director of the Department of Economic Development of the City of Virginia Beach or his designee (the "Director"), who shall be authorized to require appropriate verification as to qualifying expenditures.

6. That disbursement of EDIP funds to the Recipient shall be on a pro-rata reimbursement basis upon presentation of original receipts for qualifying expenditures to the Director. At the sole discretion of the Director, disbursement may not be prior to the completion of the Employment Opportunity Performance Criteria. Disbursement of EDIP funds shall be from time to time, but not more frequently than once per month, until fully expended.

7. That where EDIP funds are paid prior to complete satisfaction of any Performance Criteria, the Director may require the Recipient to enter into a Recapture Agreement approved by the Director. Such Recapture Agreement shall provide for the repayment by the Recipient of that portion of EDIP funds so disbursed prorated for the percentage of the Performance Criteria satisfied prior to the expiration of the Performance Period, and shall contain certain other provision as may be determined or required by the Director.

8. As a further condition of receiving the EDIP Funds, the Recipient shall conduct operations in the building at the Property (or such other locations in the City of Virginia Beach as may be agreed to by the Authority) for a minimum of five (5) years from the time of this award. Even if the requirement of paragraph 1 is met, for each year less than five that the Recipient conducts operations at the Property (or other agreed to location) upon written request from the Authority, the Recipient shall pay to the Authority, as EDIP recapture and not as a penalty, one-fifth (1/5) of the amount of the EDIP Funds provided. Such amount shall be paid within fifteen (15) business days after receipt of request from the Authority, and if not paid by such date, the amount due will bear interest at the rate of ten percent (10%) per annum from such date until paid, and such interest shall be payable by the Recipient in addition to the amount due as calculated above.

9. The Authority may terminate this award and decline to pay any unpaid funds if the recipient has not requested the full \$20,000.00 within thirty-six (36) months of the date of this Resolution.

[SIGNATURES ON FOLLOWING PAGE]

Adopted this 21<sup>st</sup> day of June, 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

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