

The background of the entire slide is a dark, starry space. Scattered throughout are numerous small, bright yellow stars of varying sizes. In the upper-left and lower-right corners, there are large, flowing, golden-yellow shapes that resemble nebulae or stylized waves. These shapes have a textured, dotted appearance and are accented with bright, glowing lines that curve and swirl.

FRANKLIN COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

Organizational Meeting

January 6, 2026, 9 AM



AGENDA
ORGANIZATIONAL MEETING
FRANKLIN COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY
GOVERNMENT CENTER, 1255 FRANKLIN STREET,
ROCKY MOUNT VIRGINIA, BOARDROOM

TUESDAY, JANUARY 6, 2026, AT 9 AM

- I. Call to Order Director of Economic Development
- II. Election of Officers
 - a. Open Floor for Nominations for Chairperson – 2026
 - b. Open Floor for Nominations for Vice-Chairperson – 2026
 - c. Appointment of Secretary – 2026
 - d. Appointment of Treasurer – 2026
- III. Setting of Regular Meeting Dates and Times for 2026 (**Attachment A**)
- IV. Approval of September 2, 2025 Meeting Minutes (**Attachment B**)
- V. Amendment of Bylaws (**Attachment C**)
- VI. Updates by Danielle (“Dani”) Poe
- VII. Performance Agreement Approval (**Attachment D**)
- VIII. Other Matters
- IX. Adjournment Chairperson

Next Meeting: To Be Determined



Franklin County Industrial Development Authority

Proposed 2026 Meeting Schedule

January 6, 2026, 9 AM

March 3, 2026, 9 AM

May 5, 2026, 9 AM

August 4, 2026, 9 AM

October 6, 2026, 9 AM

*Meetings will occur at the Government Center, 1255 Franklin Street, Rocky Mount, Virginia,
in the Board of Supervisors' Boardroom unless otherwise noticed.*

THE FRANKLIN COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY HELD A REGULAR MEETING ON TUESDAY, SEPTEMBER 2, 2025, AT 9:00 A.M., IN A MEETING ROOM LOCATED AT CAVCO ROCKY MOUNT, 740 STATE STREET, ROCKY MOUNT VA 24151

THERE WERE PRESENT: Sharon Tudor
George Martin, II
Joseph "Ed" Greer
Deanna Harris
Dennis Powell
Gary Robertson
Morris Ledbetter, Chairperson

Mike Carter, Board of Supervisors

Arlet Greer, School Board

OTHERS PRESENT: Danielle Poe, Economic Development Director
Brian Carter, Treasurer
Christopher Dadak, County Attorney
Amy R. Renick, Secretary

Chairperson, Morris Ledbetter, called the meeting to order. The first item of business was approval of the Agenda. There was no requested modification to the Agenda, and Authority member, Sharon Tudor, offered a Motion to approve the agenda, as presented.

(RESOLUTION # 01-09-2025)

BE IT THEREFORE RESOLVED by the Industrial Development Authority to approve the Agenda, as presented.

MOTION BY: Tudor

SECONDED BY: Robertson

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: All Ayes; None Opposed

ABSENT: N/A

The next order of business was approval of the Minutes from the July 1, 2025 IDA meeting. There were no modifications or corrections requested, and Ed Greer offered a motion to approve the July 1, 2025 meeting minutes, as presented.

(RESOLUTION # 02-09-2025)

BE IT THEREFORE RESOLVED by the Industrial Development Authority to approve the July 1, 2025 meeting minutes, as presented.

MOTION BY: Greer

SECONDED BY: Powell

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: All Ayes; None Opposed

ABSENT: N/A

The next order of business was approval of the Minutes from the July 22, 2025 CTE Summit. There were no modifications or corrections requested by Authority members, and Sharon Tudor offered a motion to approve the July 22, 2025 meeting minutes, as presented.

(RESOLUTION # 03-09-2025)

BE IT THEREFORE RESOLVED by the Industrial Development Authority to approve the July 22, 2025 meeting minutes, as presented.

MOTION BY: Tudor

SECONDED BY: Harris

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: All Ayes; None Opposed

ABSENT: N/A

Mrs. Daniell Poe, Economic Development Director, provided a brief update following Traditional Medicinals' recent groundbreaking relating to project timeline. In addition, the Career Tech Center was briefly discussed, and how to get the word out on learning opportunities at the Franklin Center and otherwise.

Brian Carter, IDA Treasurer, introduced Kyle Laux from Davenport & Company, who presented the following:



Franklin County, Virginia

Series 2025 BAN Plan of Finance



August 19, 2025

Member NYSE|FINRA|SIPC

Background

- Davenport & Company LLC (“Davenport”) has served as Financial Advisor to Franklin County (the “County”) for nearly three decades.
- As independent advisors, we do not recommend particular projects but rather evaluate the affordability of said projects, the impact on the County’s finances, financial policies, credit ratings, etc.
- Over a year ago, Davenport presented, in connection with deliberations for the FY 2025 Budget, a strategic plan for funding the County’s capital needs.
 - At the time, we suggested the County consider some form of interim funding, when the timing is right, and when more is known about the County’s capital needs.
 - This past summer, Davenport provided two updates on the County’s financial standing, two credit rating upgrades within the past year, and healthy, structurally balanced budgets.
 - As part of these meetings, the County continued to make significant progress as it relates to capital funding.
- As a result, we (Davenport) now recommend that the County execute on securing the aforementioned interim funding.

Interim Funding Strategy Key Factors

- While the exact project costs are being finalized, the Interim Funding Strategy will allow the County to borrow up to \$20.7 million over a 5-year, interest-only period, with the ability to prepay with minimal, if any, prepayment penalty.
- Further, the debt service on this interim borrowing and the eventual permanent financing will not impact the County’s budget, meaning there will be no additional equivalent tax impact.
- The interim borrowing will also be flexible as to funding several different capital projects, including but not limited to:
 - Purchase of the Mod-u-Kraf property;
 - Design and engineering costs for the CTE facility;
 - Design, engineering, and some renovation/construction costs for E-911 and Public Safety Offices;
 - Solid waste collection; and
 - School HVAC, Roof Replacement and other capital.
- Further, proceeds of the borrowing, until they are spent, will be invested in a State program that earns an interest rate approximate to the County’s borrowing rate.

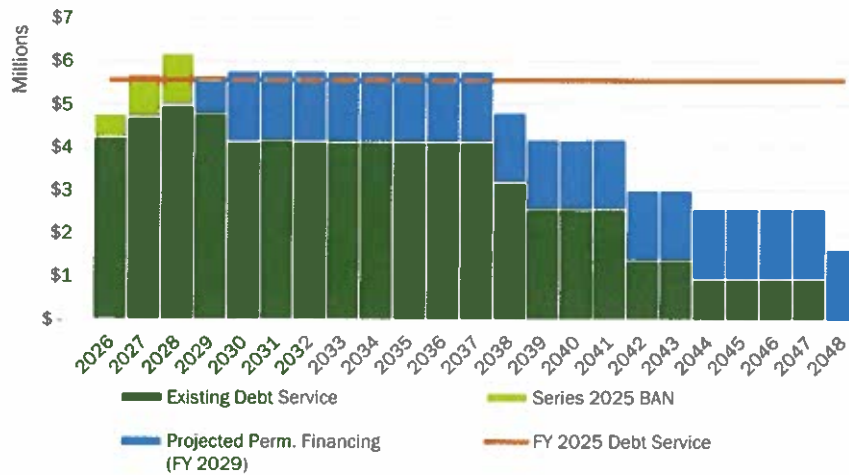
Projected Cash Flow Impact

Preliminary Estimate Based on 5% Planning Rate



- Under the planning assumptions, the County can fully fund debt service on the Series 2025 Notes and corresponding permanent financing with effectively no cash flow impact.

Total Projected Debt Service



Note: Incorporates a 5% planning interest rate and assumes all borrowings are sized at par. FY 2029 Projected Perm. Financing assumed to have a level debt service structure and 20-year term.



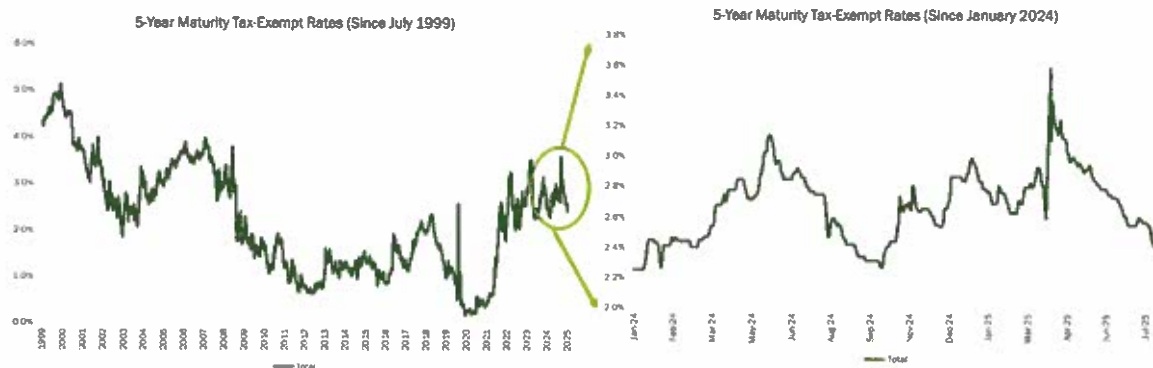
August 19, 2025

Series 2025 BAN Plan of Finance 3

5 Year Tax-Exempt Rates



- Short-term borrowing rates remain at historically favorable levels.



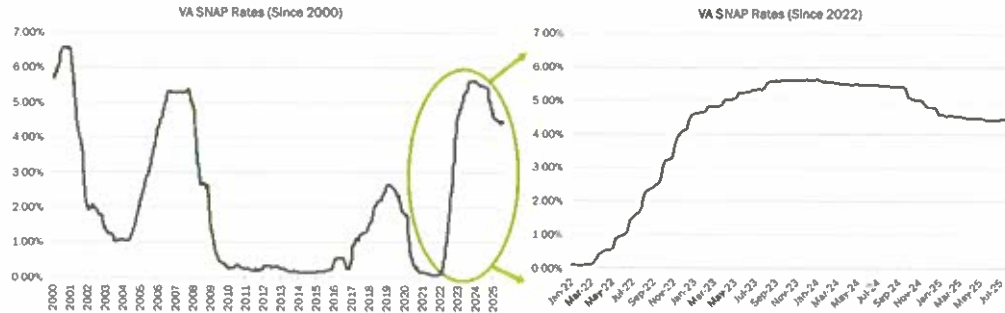
August 19, 2025

Source: MMD as of 8/11/2025

Series 2025 BAN Plan of Finance 4

Virginia SNAP Rates

- Short-term reinvestment rates continue to remain favorable



Timetable for Next Steps

Date	Task
August 19 th	Board of Supervisors Meeting: <ul style="list-style-type: none"> ■ Davenport presents Plan of Finance for the 2025 Note to the Board of Supervisors; and, ■ Board of Supervisors Required Resolution(s) and Approves Forms of POS/Financing Documents.
September 2 nd	IDA Meeting: <ul style="list-style-type: none"> ■ Davenport presents Plan of Finance for the 2025 Note to the IDA; and, ■ IDA Adopts Required Resolution(s) and Approves Forms of POS/Financing Documents.
Week of September 8 th	Meetings with Credit Rating Agencies.
On or about September 22 nd	Credit Ratings Received.
Week of September 29 th	Note Sale - interest rates locked in at this time.
On or about October 14 th	Closing - funds received.



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August 19, 2025

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01.01.25 CW/AA/KL/DR



August 19, 2025

Series 2025 BAN Plan of Finance

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Mr. Laux briefly discussed the IDA's role, and the County's credit rating. There was mention of the County's finance plan for development stages including various options such as the 1% sales tax, state financing and grants. There was brief discussion about Public Safety's planned renovations and related cost coverage.

Timeframe, process and obstacles concerning the suggested 1% sales tax increase were mentioned (Governor's veto).

Inquiry was made about the status of the rezoning process for the Mod-U-Kraf building (CTE). A brief update was provided: a proposed text amendment will be going before the Rocky Mount Town Planning Commission tonight, and then will go before Town Council the next week.

Jesse Bausch, Esq., from Sands Anderson, briefly talked about the Resolution required by the IDA. A broad breakdown of the \$20,000 being borrowed, along with inspection(s) of the Mod-U-Kraf facility were topics of conversation.

Gary Robertson offered a Motion to approve the proposed Resolution.

(RESOLUTION # 04-09-2025)

BE IT THEREFORE RESOLVED by the Industrial Development Authority to approve the proposed Resolution.

MOTION BY: Robertson

SECONDED BY: Tudor

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Tudor, Robertson, Harris, Greer, Powell, Martin, Ledbetter

ABSENT: N/A

* Roll call vote was taken.

County Attorney, Chris Dadak, voiced that at the next meeting, IDA Bylaws will be revisited, to add a provision pertaining to remote participation, in the event it might be needed in the future.

The members of the Industrial Development Authority then toured the CAVCO – Rocky Mount facility.

The meeting was adjourned at 10:55 AM.

CHAIRMAN

SECRETARY

DRAFT

BYLAWS (the "Bylaws")
OF THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE COUNTY OF FRANKLIN, VIRGINIA

Adopted:

Amended:

ARTICLE I - THE AUTHORITY

Section 1. NAME. The name of the political subdivision of the Commonwealth of Virginia within the County of Franklin (the "County") created by Ordinance _____ adopted by the Franklin County Board of Supervisors on _____, and currently codified in the Franklin County Code of Ordinances in sections 2-121, et seq., is the Industrial Development Authority of the County of Franklin, Virginia ("Authority").

Section 2. OFFICE OF THE AUTHORITY. The office of the Authority shall be at 1255 Franklin Street, Suite 112, Rocky Mount, Virginia, but the Authority may hold its meetings at such other places as may be designated by resolution or upon call of the Chairman.

Section 3. PURPOSES. The Authority shall exercise its powers for the purposes enacted by the General Assembly of Virginia set forth in the Industrial Development and Revenue Bond Act, constituting Chapter 33 of Title 15.1 of the Code of Virginia 1950, as amended (recodified as Chapter 49 of Title 15.2 of the Virginia Code).

Section 4. BOARD OF DIRECTORS. The Authority shall be governed by a board of directors (the "board") composed of seven (7) members (the "directors," with each being a "director") appointed by the governing body of the County, all of whom shall be residents of the County at the time of their appointment. When a director ceases to be a resident of the County, the director's office shall become vacant and a new director shall be appointed by the board of supervisors for the remainder of the term.

Section 5. TERM OF DIRECTORS. Directors shall hold office for a term of four (4) years and until their successors are appointed and qualified.

Section 6. OATH. Each director before entering upon the discharge of duties shall take and subscribe to the oath of office required by Section 49-1 of the Code of Virginia, (1950) as amended.

Section 7. POWERS. The Authority shall act through its board of directors and shall have those powers enumerated in the Industrial Development and Revenue Bond Act, including such powers as may hereafter be set forth from time to time in such Act.

Section 8. REMOVAL OF DIRECTORS. A director may be removed from office upon a majority vote by the County board of supervisors in the event that the director is absent from any three consecutive meetings of the Authority or is absent from any four meetings of the Authority within any twelve month period; or a director may be removed upon unanimous vote of the board of supervisors. In such event, a successor shall be appointed by the board of supervisors as soon as practicable for the unexpired portion of the term of the director who has been removed.

ARTICLE II - OFFICERS

Section 1. OFFICERS. The directors of the Authority shall elect from their membership a Chairman (the "Chairman"), and a Vice-Chairman (the "Vice-Chairman") and from their membership or not, a Secretary/Treasurer (the "Secretary/Treasurer"), or a Secretary (the "Secretary") and a Treasurer (the "Treasurer").

Section 2. CHAIRMAN. The Chairman shall preside at all meetings of the Authority. Except as otherwise authorized by resolution of the Authority, the Chairman, or his/her designee shall sign all contracts, deeds, and other instruments made by the Authority. At each meeting the Chairman shall submit such recommendations and information as he/she may consider proper concerning the business affairs and policies of the Authority.

Section 3. VICE-CHAIRMAN. The Vice-Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman, and in case of the resignation or death of the Chairman, the Vice-Chairman shall perform such duties as are imposed on the Chairman until such time as the Authority shall select a new Chairman.

Section 4. SECRETARY. The Secretary shall keep detailed minutes of the meetings of the Authority, which shall be open to public inspection at all times.

Section 5. TREASURER. The Treasurer shall keep suitable records of all financial transactions and the Authority shall have these records audited as required pursuant to Virginia Code §30-140, as amended, and a copy of any audit shall be provided to the County board of supervisors.

Section 6. ELECTION OF OFFICERS. The officers shall be elected at the annual organization meeting of the Authority which shall occur in January of each year and each shall hold office for one (1) year and until their successor is elected and qualified. There shall be no limit as to the number of times an officer may be reelected to serve in any office of the Authority.

Section 7. OFFICER VACANCIES. Should an office of the Authority become vacant, the directors shall elect a successor from their membership at the next meeting, regular or special, and such election shall be for the unexpired term of said office.

ARTICLE III - MEETINGS

Section 1. ORGANIZATIONAL MEETING. Subject to any contrary resolution of the board of directors, the organizational meeting of the Authority shall be held during a meeting held in January of each year at a location designated by the chairman.

Section 2. REGULAR MEETINGS. At the organizational meeting, the board of directors shall fix the dates and times of its regular meetings for the year. At minimum, the board shall meet annually for its organizational meeting.

Section 3. SPECIAL MEETINGS. The chairman may, when deemed expedient, or upon the written request of two (2) directors, call a special meeting of the Authority for the purpose of transacting any business designated in the call. The clerk shall mail to all directors, at least five (5) days in advance of a special meeting, a written notice fixing the time and place of the meeting and the purpose thereof. Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting or if all directors are present at the special meeting or files a waiver of notice. At such special meeting, no business shall be considered other than as designated in the call, except that if all the directors of the Authority are present at a special meeting, any and all business may be transacted at such special meeting.

Section 4. QUORUM. Four (4) members of the board of directors shall constitute a quorum of the board for the purpose of conducting its business and for exercising its powers and for all other purposes, except that no facilities owned by the Authority shall be leased or disposed of in any manner without an affirmative vote of a majority of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum of the board to exercise all the powers and perform all the duties of the board.

Section 5. RULES OF PROCEDURE. Parliamentary procedure in board meetings shall be governed by the adopted rules of order, namely, Robert's Rules of Order.

Section 6. PARTICIPATION BY ELECTRONIC MEANS. As authorized by Section 2.2-3708.3 of the Code of Virginia, 1950, as amended, the board may allow the participation of directors of the board in a meeting through electronic communication means provided that a quorum of directors is physically present at the primary or central meeting location and subject to complying with all parts of this policy:

6-1. On or before the day of a meeting (no less than 1 hour prior to the start of the meeting), the director shall notify the chair of the board and the clerk, that the director requests to participate in the meeting remotely because the director is unable to attend the meeting for one of the following reasons:

a) The director has a temporary or permanent disability or other medical condition that prevents the director's physical attendance; or

b) A medical condition of a member of the director's family requires the director to provide care that prevents the director's physical attendance;

c) The director's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or

d) The director is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter.

6-2- A majority of the board that is present at the primary or central meeting location must approve by voice vote the absent director's remote participation. If participation by a director through electronic communication means is approved pursuant to this subsection, the board shall record in its minutes the remote location from which the director participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description. If participation is approved pursuant to 6-1(a) or 6-1(b), the board shall also include in its minutes the fact that the director participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the director's physical attendance or (ii) family member's medical condition that required the director to provide care for such family member, thereby preventing the director's physical attendance. If participation is approved pursuant to 6-1(c), the board shall also include

in its minutes the fact that the director participated through electronic communication means due to the distance between the director's principal residence and the meeting location. If participation is approved pursuant to 6-1(d), the board shall also include in its minutes the specific nature of the personal matter cited by the director.

6-3. If the director's remote participation is disapproved because such participation would violate the strict and uniform application of this written policy, such disapproval shall be recorded in the board's minutes.

6-4. Remote participation by a director shall be limited in each calendar year to two (2) meetings or 25 percent of the meetings held that calendar year rounded up to the next whole number, whichever is greater.

6-5. A quorum of the board shall be physically assembled at the primary or central meeting location.

6-6. The board shall make arrangements for the voice of the director participating remotely to be heard by all persons in attendance at the primary or central meeting location.

6-7. Any votes taken during a meeting where there is directors participating remotely shall be by roll call vote so as to accurately record all votes taken.

Section 7. CONFLICTS. Directors are expected to vote on all matters except when abstention is appropriate pursuant to the Virginia Conflict of Interest Act or when a director perceives he or she has a conflict of interest that is not covered by the Conflict of Interest Act. The procedures for abstention that are set out in the Conflict of Interest Act will be applicable to perceived conflicts of interest that are not covered by the Act.

ARTICLE IV - AMENDMENTS

Section 1. AMENDMENTS TO BYLAWS. The Bylaws of the Authority may be amended from time to time at a regular or special meeting of the Authority as deemed necessary by a majority vote of the directors. .

ARTICLE V - CONFLICTS

Section 1. CONFLICTING PROVISIONS. If any of these Bylaws should be inconsistent with the terms, conditions, or stipulations of any agreement entered into by the Authority to secure bonds issued by the Authority, such conflicting provisions of these Bylaws shall, to the extent of such conflict, be deemed ineffective and of no force.

Adopted on _____

Chairman

ATTEST:

Secretary

PERFORMANCE AGREEMENT

This PERFORMANCE AGREEMENT (the "Agreement") is made and entered into as of the ____ day of _____, 2025, by and among the COUNTY OF FRANKLIN, VIRGINIA (the "County"), a municipal corporation of the Commonwealth of Virginia, the INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF FRANKLIN, VIRGINIA (the "Authority"), a political subdivision of the Commonwealth of Virginia, and M W MANUFACTURERS INC. (the "Company"), a Delaware Corporation authorized to do business in Virginia, any two or more of which may be referred to as "Parties."

RECITALS

WHEREAS, the Company operates manufacturing facilities located at 433 North Main St. Rocky Mount, VA 24151, identified as Tax Parcel 2070007200 in the County's assessment records, 375 North Main St. Rocky Mount, VA 24151, identified as Tax Parcel 2070007600 in the County's assessment records, 350 State St. Rocky Mount, VA 24151, identified as Tax Parcel 2070008900 in the County's assessment records, and 315 Pell Ave. Rocky Mount, VA 24151, identified as Tax Parcel 2070053502 in the County's assessment records (together, the "Facility"), at which it will make a capital investment consisting of the expansion, equipping, and improvement of the Facility;

WHEREAS, the Company's capital investments for the expansion, equipping, and improvement of the Facility will constitute a total capital expenditure of at least \$4,900,000;

WHEREAS, the Company's expansion, equipping, improvement, and operation of the Facility will entail the creation and maintenance of 50 new jobs at the Facility;

WHEREAS, the County and the Authority have determined that the Company's expansion, equipping, improvement, and operation of the Facility will promote economic development, generate additional revenue, and provide employment opportunities;

WHEREAS, the stimulation of additional tax revenue and economic activity to be generated by the capital investment and new jobs, as this Agreement defines such capital investment and new jobs, constitute a valid public purpose for the expenditure of public funds; and

WHEREAS, section 15.2-953 of the Code of Virginia authorizes the County and section 15.2-4905 authorizes the Authority to perform the activities that this Agreement contemplates;

WHEREAS, this Agreement sets forth the understanding of the Parties concerning the payment of a performance grant to the Company as the local match for a grant from the Commonwealth's Development Opportunity Fund.

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises, and undertakings of the Parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1.0 Definitions and Interpretation.

- 1.1 **Previously Defined Terms.** The terms “Agreement,” “Authority,” “County,” “Company,” “Facility,” and “Parties” have the meanings ascribed to them in this Agreement’s preamble and recitals.
- 1.2 **Additional Definitions.** The following terms have the following meanings for purposes of this Agreement:
- 1.2.1 **Average Annual Wage.** “Average Annual Wage” means the average annual salary of new full-time positions at the Facility determined by dividing total payroll (of a type included in W-2 compensation) provided to new full-time positions at the Facility by the number of new full-time positions at the Facility.
- 1.2.2 **Capital Investment.** “Capital Investment” means capital expenditures by or on behalf of the Company that result in an increase in the County’s tax receipts from real estate, tangible personal property, or both, at the Facility after June 1, 2025. Expenditures for the purchase or lease of machinery and tools, furniture or fixtures, and business personal property, including, for any of them, those acquired under an operating lease, as well as for the construction of improvements and upfit on real property, qualify as part of the Capital Investment.
- 1.2.3 **Capital Investment Target.** “Capital Investment Target” means a Capital Investment of not less than \$4,900,000.
- 1.2.4 **Maintain.** “Maintain” means that each New Job will continue without interruption from the date of creation through the date that the level of achievement of the New Jobs Target is being tested, including the Performance Date. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) temporary reductions in the Company’s employment levels (so long as there is active recruitment for open positions), (ii) strikes, and (iii) other temporary work stoppages.
- 1.2.5 **New Job.** “New Job” means new permanent full-time employment of an indefinite duration at the Facility for which the Company provides standard fringe benefits for the employee and the Company pays an average annual wage of at least \$37,772. No job shall be counted as a New Job for purposes of determining full or partial achievement of the New Jobs Target if its inclusion in the calculation of the Average Annual Wage causes the Average Annual Wage to be less than \$37,772. Each New Job must require 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 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth of Virginia, and positions with construction contractors, vendors, suppliers, and similar multiplier or spin-off jobs shall not qualify as New Jobs. The New Jobs must be in addition to the 1,754 full-time jobs in the Commonwealth of Virginia as of June 1, 2025.

1.2.6 **New Jobs Target.** “New Jobs Target” means that the Company has created and Maintained at least 50 New Jobs.

1.2.7 **Performance Date.** “Performance Date” means September 30, 2028.

1.3 **Computation of Time.**

A. When this Agreement requires that an act be performed a prescribed amount of time before an event, the day of such event will not be counted against the time allowed, but the day on which such act is performed will be counted as part of the time. When this Agreement requires that an act be performed within a prescribed amount of time after an event, the day on which the event occurred will not be counted against the time allowed.

B. When this Agreement requires, either by specification of a date or by a prescribed period of time, that an act be performed on a Saturday, Sunday, or legal holiday or on any day or part of a day on which the government office where the act to be performed is closed, the act may be performed on the next day that is not a Saturday, Sunday, legal holiday, or day on which the government office is closed.

2.0 **Capital Investment Target.** The Company shall meet the Capital Investment Target and the New Jobs Target as of the Performance Date.

3.0 **Incentives.** The Authority and the County intend that the performance grant, with a total value of \$66,670, described in this section 3.0 constitutes the County’s local match of \$66,670 for a Commonwealth’s Development Opportunity Fund grant of \$100,000. The Company agrees that the incentive described in this section 3.0 have a total value of \$66,670.

3. **Grant.**

3.1 **Grant Amount.**

A. The Authority will pay the performance grant to the Company if the Company meets the eligibility requirements set forth in section 3.2 as an incentive to the Company for meeting the Capital Investment Target and the New Jobs Target.

B. The Authority will pay the performance grant in a lump sum. Under no circumstances will the total the Authority pays to the Company exceed \$66,670.

C. Under no circumstances will the performance grant be a general obligation of the Authority. The obligations of the Authority are limited solely to funds provided by the County pursuant to this Agreement.

3.2 **Company’s Eligibility for Grant.** The Company must comply with all of the following eligibility requirements to be eligible to receive the performance grant:

- A. The Company shall meet the Capital Investment Target by the Performance Date.
- B. The Company shall meet the New Jobs Target by the Performance Date.
- C. The Company shall ensure that all taxes properly assessed and levied by the County against the Facility, and any tangible personal property, of the Company are paid in full when required.
- D. The Company shall comply with the provisions of any laws or regulations enacted or otherwise made effective by any federal, state, or local governmental entity which might apply to the performance of this Agreement, obtain all necessary licenses and permits thereunder, and pay when required all taxes or other charges properly assessed against the Company thereunder.
- E. The Company's representations under section 5.0 must remain true.
- F. The Company shall not be in default under subsections (A), (B), (C), or any of them of section 6.1.

If the Company fails to meet any of these eligibility requirements, then the Company will be ineligible to receive the Performance Grant.

3.3 Request for Payment of Grant.

- A. After the Performance Date and upon submission of all information required by section 3.4, the Company is entitled to request the payment of the performance grant in writing to both the Authority and the County.
- B. Upon receipt of the Company's request, the Authority will review the request and the information submitted pursuant to section 3.4 for compliance with the requirements of this Agreement. The Authority may disapprove a request if the information submitted pursuant to section 3.4 do not comply fully with the requirements of this Agreement and may require the Company to submit revised or additional information. In this event, the Authority shall provide notice to the Company stating the basis for disapproval, stating any defect in the request, and specifying the required additional information. The Company shall submit the required additional information within 30 days of receipt of the notice of disapproval.

3.4 Verification of Targets.

- A. The Company shall submit to the Authority and the County each Performance Report, including the Final Performance Report, as those terms are defined in the Company's Commonwealth Development Opportunity Fund Performance Agreement, that the Company submits to the Virginia Economic Development

Partnership Authority, together with all attachments thereto, at the same time that it submits such reports to the Virginia Economic Development Partnership Authority for the purpose of enabling the Authority and the County to verify whether the Company has met the Capital Investment Target and the New Jobs Target.

- B. The Company hereby waives its protections under section 58.1-3 of the Code of Virginia and authorizes the County, the Commissioner of the Revenue for the County of Franklin, Virginia, and the Treasurer for the County of Franklin, Virginia, to disclose tax information for the sole purpose of verifying the Capital Investment and the payment of taxes. If the County, the Commissioner of the Revenue for the County of Franklin, Virginia, and the Treasurer for the County of Franklin, Virginia, should require additional documentation or consents from the Company to access such information, the Company shall promptly provide, at the Company's expense, such additional documentation or consents as the County, the Commissioner of the Revenue for the County of Franklin, Virginia, and the Treasurer for the County of Franklin, Virginia, may request.
- C. In addition to the verification data described in subsections (A) and (B) of this section 3.4, in the sole discretion of the Authority or the County, the Authority or the County may require such other documentation or audits as may be required to verify properly the Capital Investment or the New Jobs, provided that such requests are reasonable and directly related to verification of the Company's performance under this Agreement.
- D. The Authority and the County will keep confidential all non-public information provided by the Company pursuant to this Agreement, except as required by law.

3.5 Disbursement of Grant.

- A. Within 45 days after verification and approval of the Company's request for payment of the performance grant and subject to the availability of funds, the Authority shall pay the performance grant, calculated pursuant to this section 3.5, to the Company.
- B. If, as of the Performance Date, the Company has met both the Capital Investment Target and the New Jobs Target, the Authority will disburse the entire performance grant amount identified in subsection (B) of section 3.1 to the Company as described in subsection (A) of this section 3.5.
- C. If, as of the Performance Date, the Company has achieved at least 90 percent of both the Capital Investment Target and the New Jobs Target, the Authority will disburse 90 percent of the performance grant amount identified in subsection (B) of section 3.1 to the Company as described in subsection (A) of this section 3.5.

- D. If, as of the Performance Date, the Company has not achieved at least 90 percent of both the Capital Investment Target and the New Jobs Target, section 3.6 will apply.

3.6 Termination of Grant.

- A. In the event (i) the Company fails to submit a report or other documentation as and when section 3.4 requires or (ii) the Authority is unable to verify that the Company has achieved at least 90 percent of both the Capital Investment Target and the New Jobs Target, then all obligations of the Authority and the County pursuant to this Agreement will terminate and neither the County nor the Authority will have any obligation to fund, disburse, or provide the performance grant to the Company.
- B. If the Company fails to achieve at least 90 percent of both the Capital Investment Target or the New Jobs Target as of the Performance Date, then at the Authority's option, (i) the Authority may extend the Performance Date with the approval of the County or (ii) the Authority may provide notice to the Company that section 6.2 of this Agreement will apply immediately.

4.0 Administration of Agreement.

- 4.1 **Provision of Funds.** The County shall make available to the Authority, as and when appropriated by the County's Board of Supervisors, the funds necessary for the Authority to meet its obligations under this Agreement relating to the performance grant. The County will pay no administrative fees or expenses to the Authority in relation to this Agreement.
- 4.2 **Obligations Contingent upon Funding Availability.** The Authority's obligation to undertake the activities contemplated in this Agreement with regard to the performance grant is conditioned specifically upon the County's provision of funding; provided, however, that the County's obligation to provide such funding is subject to the availability of monies appropriated by the County's Board of Supervisors for this Agreement.
- 4.3 **Documents.** The Authority agrees to provide the County's County Administrator, or the designee thereof, with copies of all documents related to this Agreement and will keep the County's County Administrator fully and timely informed of all matters related to the Agreement.
- 4.5 **Liability and Litigation.** It is the intent of the parties not to impose upon the Authority any responsibility, duty or obligation other than what may be required to implement the performance grant. Accordingly, the Authority does not assume any responsibility or liability whatsoever except as specifically stated in this Agreement. If litigation involving the performance grant is initiated or expected to be filed against the Authority, the Authority shall immediately notify the County's County Attorney and County Administrator.
- 4.6 **Audit.** The Authority shall keep records of its financial transactions, if any, related to this Agreement in accordance with generally accepted accounting principles. The County's

auditor or a designee thereof may at any time audit the financial transactions undertaken pursuant to this Agreement.

4.7 **No Surety.** The Authority is not required to furnish the County's with surety.

5.0 **Representations.** The Company represents the following:

- A. The Company is empowered to enter into this Agreement, to be bound hereby, and to perform according to the terms hereof.
- B. Any and all actions necessary to enable the Company to enter into this Agreement, and to be bound hereby, have been duly taken.
- C. The person or persons executing or attesting the execution of this Agreement on behalf of the Company has or have been duly authorized and empowered to so execute or attest.
- D. The execution of this Agreement on behalf of the Company will bind and obligate the Company to the extent provided by the terms hereof.
- E. There exists no litigation pending against the Company or, to the Company's actual knowledge, threatened that, if determined adversely, would materially and adversely affect the ability of the Company to carry out its obligations under this Agreement or the transactions contemplated hereunder.
- F. The Company is authorized to transact business in the Commonwealth of Virginia as of the date written first above and warrants that it will remain so through the Performance Date.

6.0 **Default.**

6.1 **Events of Default.** Each of the following will constitute a default by the Company:

- A. Any court of competent jurisdiction enters an order, judgment, or decree approving a petition seeking reorganization of the Company, all or a substantial part of the assets of the Company, or any guarantor of the Company or appointing a receiver, sequestrator, trustee, or liquidator of the Company, any guarantor of the Company, or any of their property, and such order, judgment, or decree continues unstayed and in effect for at least 60 days.
- B. The Company (i) makes a general assignment for the benefit of creditors, (ii) is adjudicated as either bankrupt or insolvent, (iii) files a voluntary petition in bankruptcy or a petition or answer seeking reorganization or an arrangement with creditors, (iv) either (a) takes advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution, or liquidation law or (b) admits the material allegations of a petition filed against the Company in any proceedings

under such a law, or (v) any guarantor of the Company takes action for the purposes of effecting any item identified in item (iv).

- C. The Company fails to maintain its corporate existence.
- D. The Company fails to meet the Capital Investment Target.
- E. The Company fails to meet the New Jobs Target.

6.2 Effect of Default. In the case of a default:

- A. The provisions of section 3.0 of this Agreement will terminate immediately;
- B. Neither the County nor the Authority will have any further obligation relating to the provisions of section 3.0 of this Agreement; and
- C. The Company will no longer be eligible to receive the performance grant.

7.0 Notices. All notices, demands, or other communications pursuant to this Agreement must be in writing, must be sent to the other Parties, and will be deemed to have been duly and validly given when actually received by the addressee or when delivered (i) in person, (ii) by independent, reputable, overnight commercial carrier, or (iii) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, at the following addresses or such other addresses as any of the Parties may from time to time specify to the other Parties by notice given in accordance with this section:

If to the Authority:

Industrial Development Authority
of the County of Franklin, Virginia
Attn: Chairman
1255 Franklin St Ste <NUMBER>
Rocky Mount, VA 24151-1290

with a copy to:

Guynn Waddell, P. C.
Attn: Franklin County IDA Counsel
415 S College Ave
Salem, VA 24153-5055

If to the County:

County of Franklin, Virginia
Attn: County Administrator
1255 Franklin St Ste <NUMBER>
Rocky Mount, VA 24151-1290

with copies to:

County of Franklin, Virginia
Attn: Director of Economic Development
1255 Franklin St Ste 112
Rocky Mount, VA 24151-1290

and

Guynn Waddell, P. C.
Attn: Franklin County Attorney

415 S College Ave
Salem, VA 24153-5055

If to the Company:

M W Manufacturers Inc.
Attn: <TITLE>
5020 Weston Pkwy Ste 400
Cary, NC, 27513-2322

with a copy to:

M W Manufacturers Inc.
Attn: <TITLE>
5020 Weston Pkwy Ste 400
Cary, NC, 27513-2322

8.0 Miscellaneous Provisions.

8.1 Assignment. The Company may not assign, delegate, sublet, or otherwise transfer the Company's interest in this Agreement, any of the Company's rights or duties under this Agreement, or any part of such interest, rights, or duties, including, but not limited to, to a successor as part of any sale, merger, consolidation, assignment, or any other event that would result in new or different ownership, control, operation, or administration of the Company's business affairs, without the prior written consents of the Authority and the County, which neither the Authority nor the County will unreasonably withhold, condition, or delay. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

8.2 Authorization to Act. The County Administrator of the County or a designee thereof is authorized to act on behalf of the County for purposes of this Agreement, and the Chairman of the Authority is authorized to act on behalf of the Authority for purposes of this Agreement.

8.3 Captions. This Agreement includes the captions, headings, and titles appearing herein for convenience only, and such captions, headings, and titles will not affect the construction, interpretation, or meaning of this Agreement.

8.4 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be an original, and all of which together will be one and the same instrument. A signatory has signed this Agreement when that signatory's signature is delivered by electronic mail, facsimile transmission, or another electronic medium. All Parties will treat these signatures in all respects as having the same force and effect as original signatures.

8.5 Dispute Resolution.

8.5.1 Attorneys' Fees. Each party will bear the cost of its own attorneys' fees.

8.5.2 Construction and Interpretation. Each of the Parties has had the opportunity to have its legal counsel review this Agreement on its behalf. If an ambiguity or question of intent arises with respect to any provision of this Agreement, this Agreement will be construed as if drafted jointly by the Parties. Neither the form of this Agreement, nor any language

herein, shall be construed or interpreted in favor of or against any party hereto as the sole drafter thereof.

- 8.5.3 **Forum and Venue Choice.** Any and all disputes, claims, and causes of action arising out of or in connection with this Agreement, or any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of the County of Franklin, Virginia. The Company accepts the personal jurisdiction of this court for purposes of such action and waives all jurisdiction- and venue-related defenses to the maintenance of such action.
- 8.5.4 **Governing Law.** All issues and questions concerning the construction, enforcement, interpretation, and validity of this Agreement, or the rights and obligations of the Parties in connection with this Agreement, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia.
- 8.6 **Entire Agreement; Modification.** This Agreement, including those documents incorporated herein by reference, contains the entire agreement of the Parties with respect to the subject matter hereof. No prior written agreement or contemporaneous or prior oral agreement between the Parties, or any of them, relating to the subject matter hereof shall be of any effect. No alteration, amendment, or modification to this Agreement is binding or valid unless memorialized in a written document signed by the duly authorized representatives of the Authority, the County, and the Company.
- 8.7 **No Partnership or Joint Venture.** Neither this Agreement nor any part thereof is intended or will be construed or interpreted to create or establish any joint venture, partnership, or similar arrangement between any of the Parties or to designate any of the Parties as the agent or representative of any other of the Parties for any purpose.
- 8.8 **No Third-Party Beneficiaries.** Notwithstanding any other provision of this Agreement, the Parties hereby agree that (i) no person will be considered, deemed, or otherwise recognized to be a third-party beneficiary of this Agreement, (ii) the provisions of this Agreement are not intended to be for the benefit of any person other than the Parties, (iii) no person will obtain any right to make any claim against the Authority, the County, or the Company under the provisions of this Agreement, and (iv) no provision of this Agreement will be construed or interpreted to confer third-party beneficiary status on any person. For purposes of this section, the word "person" has the meaning set forth in section 1-230 of the Code of Virginia and includes any person, whether or not such person is named in this Agreement.
- 8.9 **No Waiver; Rights and Remedies Cumulative.** The failure by any of the Parties to enforce any provision of or right under this Agreement does not constitute a waiver of such

provision or right. The failure of any of the Parties to enforce such provision or right will not prejudice such party from later enforcing or exercising the same or any other provision or right that such party may have under this Agreement. The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by any of the Parties does not preclude or waive the right to use any or all other rights or remedies. The rights and remedies provided in this Agreement are given in addition to any other rights the Parties may have by law or otherwise.

8.10 Records.

8.10.1 Maintenance and Access. The Company shall maintain all books, records, and other documents relating to this Agreement for a period of five years after the end of each County fiscal year during which this Agreement is performed. The Authority and the County, and their authorized agents, employees, and officers are entitled to reasonable access to and the right to audit, copy, and examine any of the books, records, and other documents of the Company during the performance of this Agreement and the five-year retention period.

8.10.2 Applicable Law. The Company acknowledges that records maintained by or in the custody of the Authority or the County are subject to the Virginia Public Records Act, Va. Code §§ 42.1-76 through 42.1-91.1, and the Virginia Freedom of Information Act, Va. Code §§ 2.2-3700 through 2.2-3715, and therefore are subject to the record retention and public disclosure requirements mandated by those statutes.

8.10.3 Challenges to Nondisclosure. If the Company submits records to the Authority or the County and requests that those records not be disclosed under applicable law and the Authority or the County consequently denies a request for disclosure of those records based on the Company's request, and the Authority's or the County's denial of a request for disclosure of those records is challenged in court, the Company shall indemnify and hold harmless the Authority, the County, and their agents, employees, and officers from and against any and all liability relating thereto and, upon written demand by the Authority or the County, defend at the Company's sole expense, including, but not limited to, attorneys' fees and other costs related to litigation, any actual or threatened administrative, arbitration, or judicial action, claim, investigation, proceeding, or suit initiated by a third party in connection with such liability.

8.11 Severability. If any provision of this Agreement is determined to be unenforceable, invalid, or illegal, then the enforceability, validity, and legality of the remaining provisions of this Agreement will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the Parties as nearly as possible in accordance with applicable law.

8.12 Subject to Appropriations. All payments and other performance by the County and the Authority under this Agreement are subject to appropriations by the County's Board of

Supervisors and to the approval of the County's Board of Supervisors and the Authority's Board of Directors. Consequently, this Agreement binds the County and the Authority only to the extent that the County's Board of Supervisors appropriates sufficient funds for the County's to perform its obligations hereunder. Under no circumstances will the total liability of the Authority or the County, either or both, exceed the total amount of funds appropriated by the County's Board of Supervisors for payments or other performance pursuant to this Agreement.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives as of the date written first above:

Approved as to Form:

COUNTY OF FRANKLIN, VIRGINIA

By: _____
Jim H. Guynn, Jr.
County Attorney

By: _____
Christopher Whitlow
County Administrator

Approved as to Form:

**INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE COUNTY OF FRANKLIN, VIRGINIA**

By: _____
Jim H. Guynn, Jr.
IDA Counsel

By: _____
Morris Ledbetter
Chairman

M W MANUFACTURERS INC.

By: _____
<NAME>
<TITLE>