

INTRODUCED: December 11, 2023

AN ORDINANCE No. 2023-359

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to accept funds in the amount of \$265,275.00 from the Commonwealth’s Development Opportunity Fund, to amend the Fiscal Year 2023-2024 Special Fund Budget by creating a new special fund for the Department of Economic Development called the Alacer Corp. Special Fund, and to appropriate the increase to the Fiscal Year 2023-2024 Special Fund Budget by increasing estimated revenues and the amount appropriated to the Department of Economic Development’s Alacer Corp. Special Fund by \$265,275.00, for the purpose of providing Alacer Corp. with incentives to improve, equip, and operate its facility at 1211 Sherwood Avenue in the city of Richmond.

\_\_\_\_\_  
Patron – Mayor Stoney  
\_\_\_\_\_

Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: JAN 8 2024 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Chief Administrative Officer, for and on behalf of the City of Richmond, is authorized to accept funds in the amount of \$265,275.00 from the Commonwealth’s Development Opportunity Fund for the purpose of providing Alacer Corp. with incentives to improve, equip, and operate its facility at 1211 Sherwood Avenue in the city of Richmond.

AYES:            9            NOES:            0            ABSTAIN: \_\_\_\_\_

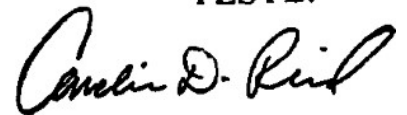
ADOPTED:    JAN 8 2024    REJECTED: \_\_\_\_\_    STRICKEN: \_\_\_\_\_

§ 2. That Article 1, Section 2 of Ordinance No. 2023-071, adopted May 8, 2023, which adopted a Special Fund Budget for the fiscal year commencing July 1, 2023, and ending June 30, 2024, and made appropriations pursuant thereto, be and is hereby amended by creating a new special fund for the Department of Economic Development called the Alacer Corp. Special Fund for the purpose of providing Alacer Corp. with incentives to improve, equip, and operate its facility at 1211 Sherwood Avenue in the city of Richmond.

§ 3. That the funds received from the Commonwealth's Development Opportunity Fund are hereby appropriated to the Special Fund Budget for the fiscal year commencing July 1, 2023, and ending June 30, 2024, by increasing estimated revenues by \$265,275.00, increasing the amount appropriated for expenditures by \$265,275.00, and allotting to the Department of Economic Development's Alacer Corp. Special Fund the sum of \$265,275.00, for the purpose of providing Alacer Corp. with incentives to improve, equip, and operate its facility at 1211 Sherwood Avenue in the city of Richmond.

§ 4. This ordinance shall be in force and effect upon adoption.

**A TRUE COPY:  
TESTE:**



**Carolin D. Reed  
City Clerk**



# City of Richmond

900 East Broad Street  
2nd Floor of City Hall  
Richmond, VA 23219  
www.rva.gov

## Master

**File Number: Admin-2023-1634**

**File ID:** Admin-2023-1634      **Type:** Request for Ordinance or Resolution      **Status:** Regular Agenda

**Version:** 1      **Reference:**      **In Control:** City Clerk Waiting Room

**Department:** Economic Development      **Cost:**      **File Created:** 09/13/2023

**Subject:** Budget Amendment to the FY 2024 Special Fund Budget      **Final Action:**

**Title:**

- Internal Notes:**
- Per the terms of the performance agreement approved by City Council (Ord. No. 2022-117), Alacer Corp. (a member of the Haleon group of companies and formerly known as GlaxoSmithKline/GSK) was awarded a Commonwealth Opportunity Fund grant for creating 57 new jobs and investing \$11,590,510 at its research and development facility at 1211 Sherwood Ave. The COF requires a 1:1 match.
  - On June 28, 2023, the City of Richmond received the \$265,275 grant from the Commonwealth (accounting string 0100-79130-21306).
  - The City must amend the FY 2024 Special Fund Budget to create a special fund for the Department of Economic Development called "Alacer Corp." and appropriate the grant funds to the Economic Development Authority of the City of Richmond (EDA) so that they may disburse these funds to Alacer Corp.

**Code Sections:**      **Agenda Date:** 12/11/2023

**Indexes:**      **Agenda Number:**

**Patron(s):**      **Enactment Date:**

**Attachments:** 1b- ORD. 2022-117 - Ord. No, 1c- Executed COF Agreement Alacer, 1d - COF award letter      **Enactment Number:**

**Contact:**      **Introduction Date:** 10/10/2023

**Drafter:** katie.mcconnell@rva.gov      **Effective Date:**

**Related Files:**

### Approval History

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Version	Seq #	Action Date	Approver	Action	Due Date
1	1	9/13/2023	Katie McConnell - FYI	Notified - FYI	
1	2	9/19/2023	Leonard Sledge	Approve	9/14/2023
1	3	9/19/2023	Alecia Blackwell - FYI	Notified - FYI	
1	4	9/22/2023	Sharon Ebert	Approve	9/21/2023
1	5	9/27/2023	Jason May	Approve	9/26/2023
1	6	9/29/2023	Sheila White	Approve	9/29/2023
1	7	9/29/2023	Cynthia Osborne - FYI	Notified - FYI	
1	8	9/30/2023	Sabrina Joy-Hogg	Approve	10/3/2023
1	9	10/27/2023	Lincoln Saunders	Approve	10/4/2023
1	10	12/6/2023	Mayor Stoney	Approve	10/31/2023

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### History of Legislative File

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Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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**Text of Legislative File Admin-2023-1634**

**O&R REQUEST**

**DATE:** September 13, 2023 **EDITION:** 1

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor

**THROUGH:** J.E. Lincoln Saunders, Chief Administrative Officer

**THROUGH:** Sabrina Joy-Hogg, DCAO Finance and Administration

**THROUGH:** Sheila White, Director of Finance

**THROUGH:** Jason May, Director of Budget and Strategic Planning

**THROUGH:** Sharon Ebert, DCAO Planning Community & Economic Development

**FROM:** Leonard L. Sledge, Director of Department of Economic Development

**RE:** Budget Amendment to the FY 2024 Special Fund Budget to accept a Commonwealth’s Development Opportunity Fund grant for Alacer Corp., a member of the Haleon group of companies.

**ORD. OR RES. No.**

**PURPOSE:** To accept a \$265,275 grant from the Commonwealth’s Development Opportunity Fund (COF); to amend the current FY 2024 Special Fund Budget by creating a new special fund for the Department of Economic Development called “Alacer Corp.,” and to appropriate the grant funds to the Economic Development Authority of the City of Richmond (EDA) so that they may disburse these funds to Alacer Corp. (the Company), a member of the Haleon group of companies.

**REASON:** The City of Richmond was awarded a COF grant of \$265,275 from the Commonwealth of Virginia to induce the growth of the Company’s research and development facility located at 1211 Sherwood Ave. City Council approval is required to create a special fund for this money so that it may be disbursed to the EDA and then to the Company

**RECOMMENDATION:** The City Administration recommends the adoption of this ordinance.

**BACKGROUND:** In October 2019, the Company's corporate predecessor, GlaxoSmithKline, announced an expansion of its research and development operation in the city of Richmond. The Commonwealth awarded a performance-based grant of up to \$675,000 from the COF to induce the Company's decision to make a capital investment of approximately \$16,730,000 and create 158 new jobs with an average annual wage of \$110,000.

As of the December 31, 2022, performance date, the Company made a capital investment of \$11,590,510 and created 57 net new jobs over the baseline of 215 jobs. Per the terms of the COF performance agreement between the Company, VEDP, the City, and the EDA (Ordinance 2022-117), Haleon's performance entitles it to a \$265,275 COF grant, which was sent from the Commonwealth to the City in the summer of 2023. The Company cites its corporate restructuring, in which GlaxoSmithKline spun off its consumer healthcare assets, including its facility at 1211 Sherwood Ave, into the new Haleon group of companies, and a slowdown during the COVID-19 pandemic as reasons for the partial achievement of targets.

The City is required to make a 1:1 match to the COF Grant by leveraging an existing local performance-based grant with Pfizer (Pfizer and GlaxoSmithKline formed a joint venture named GSK Consumer Healthcare in 2019), in-kind recruitment services, and a local performance-based grant. City funds have previously been appropriated to fulfill the City's remaining obligation, and no additional City funds are needed.--

The Company's continued expansion and investment in the city is an economic development success for Richmond's growing biotech cluster. In addition to the new capital investment and high-paying jobs that resulted from this project, the Sherwood Avenue facility continues to be the flagship research and development facility center for Haleon's impressive catalog of well-known brands, including Centrum vitamins, Advil, Tums, and Flonase.

**FISCAL IMPACT / COST:** None

**FISCAL IMPLICATIONS:** None

**BUDGET AMENDMENT NECESSARY:** A budget amendment to accept and appropriate the COF of \$265,275 is required for the current FY 2024 Special Fund Budget.

**REVENUE TO CITY:** None

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** December 11, 2023

**CITY COUNCIL PUBLIC HEARING DATE:** January 8, 2023

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** Finance and Economic Development

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** The Economic Development Authority of the City of Richmond

**AFFECTED AGENCIES:** Department of Budget and Strategic Planning, the Department of Finance, and the Department of Economic Development

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Ordinance 2022-117

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

**ATTACHMENTS:** Ordinance 2022-117 with attached Commonwealth's Development Opportunity Fund Performance Agreement; Commonwealth Opportunity Fund transfer letter from Virginia Economic Development Partnership

**STAFF:** Leonard L. Sledge, Director, Department of Economic Development - (804) 646-7576  
Katie McConnell, Deputy Director, Department of Economic Development - (804) 646-3171  
Sam Earl, Senior Management Analyst, Department of Economic Development - (804) 646-4248

June 7, 2023

Mr. Leonard Sledge  
Director of Economic Development  
City of Richmond  
1500 East Main Street, Suite 400  
Richmond, Virginia 23219

Dear Leonard:

The City of Richmond was awarded a \$675,000 grant from the Commonwealth's Opportunity Fund (COF) in 2020 for the benefit of Alacer Corp. (GSK) based on the company's promise to make capital investments in the City of at least \$16,730,000 and to create and maintain at least 158 new jobs in the City at an average annual wage of \$110,000 as of the performance date of December 31, 2022.

The statutory minimum eligibility requirements for this COF grant are a \$1,500,000 investment **and** the creation of 15 new jobs. Failure by the Company to meet either of these statutory minimums by the performance date requires that the entire COF grant be repaid.

Ten percent (10%) of the COF grant (\$67,500) was allocated to the capital investment commitment, and 90% (\$607,500) was allocated to the new jobs commitment.

Alacer reported that it invested \$11,590,510 during the performance period. Based on information provided by the City of Richmond and the company, this capital investment has been verified. Accordingly, Alacer is eligible to receive 69% (\$46,575) of the \$67,500 of the COF grant proceeds allocated to the capital investment commitment.

The company created 57 of the required 158 new employees at an average annual salary of \$119,390. As such, Alacer is entitled to receive 36% (\$218,700) of the \$607,500 of the COF grant proceeds allocated to the new jobs commitment.

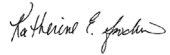
Based on the calculations above, Alacer is eligible to receive \$265,275 of the COF grant proceeds. These funds have been requested and will be transferred to the City within four to six weeks for transmitting to the company. The remaining balance of \$409,725 will be returned to the COF for use with other projects.



Mr. Leonard Sledge  
June 7, 2023  
Page 2

Thank you for your assistance in this matter. We wish Alacer every continued success with its Richmond facility. If you have any questions, please contact Kim Ellett at 804-545-5618.

Sincerely,



Katherine E. Goodwin  
Interim Vice President, Incentives

KEG:kme

Attachments

cc Katie McConnell, Deputy Director of Economic Development, City of Richmond  
Sam Earl, Senior Management Analyst, Richmond Economic Development  
Kim Ellett, Director of Compliance, VEDP

**COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND**  
**PERFORMANCE AGREEMENT**

This **PERFORMANCE AGREEMENT** (this "Agreement") is made and entered as of the first day of July, 2021, by and among the **CITY OF RICHMOND, VIRGINIA** (the "Locality"), a political subdivision of the Commonwealth of Virginia (the "Commonwealth"), **ALACER CORP.**, a California corporation which is a member of the GlaxoSmithKline group of companies and authorized to transact business in the Commonwealth (the "Company"), the **ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF RICHMOND, VIRGINIA** (the "Authority"), a political subdivision of the Commonwealth, and the **VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP AUTHORITY** ("VEDP"), a political subdivision of the Commonwealth.

WITNESSETH:

WHEREAS, the Locality has been awarded a grant of and expects to receive \$675,000 from the Commonwealth's Development Opportunity Fund (the "COF Grant") through VEDP for the purpose of inducing the Company to expand, equip, improve and operate a research and development facility in the Locality commonly known as 1211 Sherwood Avenue, Richmond VA (the "Facility"), thereby making a significant Capital Investment, and creating and Maintaining a significant number of New Jobs, as such capitalized terms are hereinafter defined;

WHEREAS, the Locality is willing to provide the funds to the Authority with the expectation that the Authority will provide the funds to or for the use of the Company, provided that the Company promises to meet certain criteria relating to Capital Investment and New Jobs;

WHEREAS, the Locality, the Authority, the Company, and VEDP desire to set forth their understanding and agreement as to the payout of the COF Grant, the use of the COF Grant proceeds, the obligations of the Company regarding Capital Investment and New Jobs, and the repayment of all or part of the COF Grant under certain circumstances;

WHEREAS, the expansion, equipping, improvement and operation of the Facility will entail a capital expenditure by or on behalf of the Company of approximately \$16,730,000, of which approximately \$8,500,000 will be invested in machinery and tools, approximately \$2,730,000 will be invested in furniture, fixtures and business personal property, and approximately \$5,500,000 will be invested in the expansion and up-fit of the building;

WHEREAS, the expansion, equipping, improvement and operation of the Facility will further entail the creation and Maintenance of 158 New Jobs at the Facility; and

WHEREAS, the stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment and New Jobs constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the COF Grant:

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

**Section 1. Definitions.**

For the purposes of this Agreement, the following terms shall have the following definitions:

“Capital Investment” means a capital expenditure by or on behalf of the Company in taxable real property, taxable tangible personal property, or both, at the Facility, from November 1, 2019 through the Performance Date. For purposes of clarity, the fact that any capital expenditure qualifies for any tax incentive, deduction, grant, abatement, credit or similar favorable treatment shall not disqualify said expenditure from qualifying as a Capital Investment hereunder. The purchase or lease of machinery and tools or furniture, fixtures, and business personal property, including under an operating lease, by or on behalf of the Company will qualify as Capital Investment. The Capital Investment must be in addition to the capital improvements at the Facility as of November 1, 2019.

“Corporate Divestment” shall mean: (a) a sale, assignment or transfer of all or substantially all of the capital stock or assets of the Company; or (b) a merger or consolidation involving the Company and another entity with which Company merges or consolidates which succeeds to substantially all the assets or stock of the Company. Without limiting the foregoing, the parties acknowledge that Company’s ultimate parent entity has announced<sup>1</sup> that it plans to effectuate a demerger of the joint venture (of which the Company is a part) and therefore agree that said demerger shall be considered a Corporate Divestment for purposes of this Agreement.

“Fund” means the Commonwealth’s Development Opportunity Fund, from which the COF Grant will be paid.

“Maintain” means that the New Jobs will continue without interruption from the date of creation through 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.

“New Job” means new permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are provided by the Company for the employee, and for which the Company pays an average annual wage of at least \$110,000. Average annual wage means the average annual salary of full-time positions at the Facility determined by dividing total payroll (of a type included in W-2 compensation) provided to full-time positions at the Facility by the number of full-time positions at the Facility. 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

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<sup>1</sup> <https://www.gsk.com/en-gb/media/press-releases/glaxosmithkline-plc-and-pfizer-inc-to-form-new-world-leading-consumer-healthcare-joint-venture/>

Company's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Net new jobs in the Commonwealth for contractors or employees of contractors who provide dedicated full-time service to the Company may count as New Jobs, even though the Company is not directly paying the wages or providing the fringe benefits, if the other conditions set forth in this paragraph have been satisfied. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as New Jobs. For purposes of clarity, the term "spin off jobs" shall not disqualify New Jobs created or maintained as a result of the demerger referenced in the definition of "Corporate Divestment". The New Jobs must be in addition to the 215 full-time jobs at the Facility as of November 1, 2019.

"Performance Date" means December 31, 2022. If the Locality, in consultation with the Authority and VEDP, deems that good faith and reasonable efforts have been made and are being made by the Company to achieve the Targets, the Locality may, at any time prior to the Performance Date, request an extension of the Performance Date by up to 15 months. Any extension of the Performance Date shall require the prior approval of the Board of Directors of VEDP (the "Board") and the Company. If the Performance Date is extended, the Locality shall send written notice of the extension to the Authority, the Company and VEDP and the date to which the Performance Date has been extended shall be the "Performance Date" for the purposes of this Agreement.

"Targets" means the Company's obligations (which may be satisfied by the Company's affiliates) to make Capital Investments of at least \$16,730,000 and to create and Maintain at least 158 New Jobs, all as of the Performance Date.

"Virginia Code" means the Code of Virginia of 1950, as amended.

## **Section 2. Targets; Statutory Criteria.**

(a) *Targets:* The Company will expand, equip, improve and operate the Facility in the Locality, make a Capital Investment of at least \$16,730,000, and create and Maintain at least 158 New Jobs, all as of the Performance Date.

(b) *Encouragement to Offer New Jobs to Residents of the Commonwealth:* The Locality, the Authority, and VEDP hereby strongly encourage the Company to ensure that at least 30% of the New Jobs are offered to "Residents" of the Commonwealth, as defined in Virginia Code Section 58.1-302. In pertinent part, that definition includes natural persons domiciled in Virginia or natural persons who, for an aggregate of more than 183 days of the year, maintained a place of abode within the Commonwealth, whether domiciled in the Commonwealth or not.

(c) *Prevailing Wage; Unemployment and Poverty Rates:* The Authority and VEDP provide this Section 2(c) as representations to the Company. The average annual wage of the New Jobs of at least \$110,000 is more than the prevailing average annual wage in the Locality of \$68,015. The Locality is a high-unemployment locality, with an unemployment rate for 2019, which is the last year for which such data is available, of 3.3% as compared to the 2019 statewide unemployment rate of 2.8%. The Locality is a high-poverty locality, with a poverty rate for 2019,

which is the last year for which such data is available, of 19.2% as compared to the 2019 statewide poverty rate of 9.9%.

(d) *Disclosure of Political Contributions:* The Company acknowledges that the name of the Company will be shared by VEDP with the Governor of Virginia, and any campaign committee or political action committee associated with the Governor. The Company acknowledges that within 18 months of the date of this Performance Agreement, the Governor, his campaign committee, and his political action committee will submit to the Virginia Conflict of Interest and Ethics Advisory Council a report listing any contribution, gift, or other item with a value greater than \$100 provided by the Company to the Governor, his campaign committee, or his political action committee, respectively, during the period from the date of the Company's application for the COF Grant through the one-year period immediately after the date of this Agreement.

### **Section 3. Disbursement of COF Grant.**

(a) *Disbursement of the COF Grant:* The disbursement of the COF Grant proceeds to the Company will serve as an inducement to the Company to achieve the Targets. Within 90 days after the Performance Date, the Company will provide the Final Report described in Section 5(b). Through the Final Report, the Company will provide notice and evidence to the Locality and VEDP of the amount of Capital Investments made and retained and the number of New Jobs created and Maintained at the Facility as of the Performance Date. The Final Report will be subject to verification by the Locality and VEDP.

The amount of the COF Grant proceeds to be disbursed shall be calculated as follows:

If the Final Report indicates that the Company has not made Capital Investments of at least \$1,500,000 and created and Maintained at least 15 New Jobs as of the Performance Date, it will not receive any of the proceeds of the COF Grant. These are the statutory minimum requirements for a COF Grant under the Virginia Code for a project located in the Locality.

If the Final Report indicates that the Company has made Capital Investments of at least \$16,730,000 and created and Maintained at least 158 New Jobs as of the Performance Date, the Company will receive all \$675,000 of the COF Grant proceeds.

If the Final Report indicates that the Company has made Capital Investments of at least \$1,500,000 and created and Maintained at least 15 New Jobs, but has not fully achieved the Targets as of the Performance Date, as required under the preceding paragraph for the Company to receive all \$675,000 of the COF Grant proceeds, the Company will qualify for a reduced disbursement of the COF Grant. In calculating the reduced disbursement, the COF Grant is to be allocated as 10% (\$67,500) for the Company's Capital Investment Target, and 90% (\$607,500) for the Company's New Jobs Target. If the Company met the statutory minimum requirements set forth above, but has not fully achieved the Targets as of the

Performance Date, the Company will not receive that part of the COF Grant that is proportional to the Target or Targets for which there is a shortfall. For example, if as of the Performance Date, only \$13,384,000 of the Capital Investment has been made and retained (reflecting achievement of 80% of the Capital Investment Target), and only 118 New Jobs have been created and Maintained (reflecting achievement of 75% of the New Jobs Target), the Company will receive \$54,000 (reflecting 80% of the \$67,500 allocated to the Capital Investment Target), *plus* \$455,625 (reflecting 75% of the \$607,500 allocated to the New Jobs Target), for a total disbursement amount of \$509,625. These amounts reflect the percentages of the shortfall from the expected amount of Capital Investment and expected number of New Jobs, each multiplied by the portion of the COF Grant proceeds available to the Company allocated to that Target.

The COF Grant proceeds shall be retained in the Fund, until needed for disbursement. Within 30 days after verification of the Final Report, if any amount of COF Grant proceeds have been earned by the Company, VEDP will disburse that amount to the Locality. Within 30 days after the receipt of the COF Grant proceeds (receipt meaning both acceptance of the COF Grant proceeds by the City Council of the City of Richmond, Virginia (the "Council") and the appropriation by Council of such COF Grant proceeds to the Authority), the Locality will disburse the COF Grant proceeds to the Authority. Within 30 days after its receipt of the COF Grant proceeds, the Authority will disburse the COF Grant proceeds to the Company.

If any amount of COF Grant proceeds have not been earned by the Company, the amount not disbursed will be retained in the Fund and will be available for other economic development projects.

(b) *Use of the COF Grant Proceeds:* The Company will use the COF Grant proceeds to pay or reimburse: the cost of grading, drainage, paving, and any other activity required to prepare a site for construction, and construction or build-out of publicly or privately owned buildings or for training, all as permitted by Section 2.2-115(D) of the Virginia Code.

(c) *Tax Apportionment.* The parties hereto acknowledge that the in-scope operations at the Facility for this Agreement may be undertaken by various affiliated entities within the group company structure of which the Company is a part. As a result thereof, the parties agree that any incentives, rebates, deductions or other financial benefits made available to the Company under this Agreement may be apportioned among said affiliated entities, as determined by the Company's tax advisors and as communicated by said advisors to the Locality, Authority and VEDP.

#### **Section 4. Break-Even Point; State and Local Incentives.**

(a) *State-Level Incentives:* VEDP has estimated that the Commonwealth will reach its "break-even point" by the Performance Date. The break-even point compares new revenues realized as a result of the Capital Investment and New Jobs at the Facility with the Commonwealth's expenditures on discretionary incentives, including but not limited to the COF

Grant. With regard to the Facility, the Commonwealth expects to provide discretionary incentives in the following amounts:

<u>Category of Incentive:</u>	<u>Total Amount</u>
COF Grant	\$675,000
Enterprise Zone Job Creation Grant (“EZJCG”) (Estimated)*	689,600
Enterprise Zone Real Property Investment Grant (“EZRPIG”) (Estimated)*	100,000
VEDP Talent Accelerator Program (“VTAP”) (Approximate Value)	700,000

\* The availability of state-level enterprise zone incentives assumes that the Locality applies for, and the Commonwealth approves, an expansion of an existing enterprise zone to include the land on which the Facility sits.

The proceeds of the COF Grant shall be used for the purposes described in Section 3(b). The proceeds of the EZJCG and the EZRPIG, if authorized, may be used by the Company for any lawful purpose. The VTAP represents workforce development services to be provided to the Company for recruitment and training.

(b) *Local-Level Incentives:* The Locality expects to provide the following incentives, as matching grants or otherwise, for the Facility by the Performance Date:

<u>Category of Incentive:</u>	<u>Total Amount</u>
Existing Economic Development Incentive Grant to Wyeth, LLC	\$325,000
Local Economic Development Incentive Grant to Pfizer	275,000
Relocation Assistance (In-Kind)	25,000
Permit Fee Grant	10,000
Local Enterprise Zone Incentives	40,000

If, by the Performance Date, the proceeds disbursed or committed to be disbursed by the Locality to the Company total less than the \$675,000 COF Grant local match requirement, the Locality, subject to appropriation, will make an additional grant, or will provide additional in-kind services, either or both, in the Locality’s discretion, to the Company in a value equal to the difference promptly after the Performance Date, so long as the Company has met its Targets.

The proceeds of the Cash Grants may be used by the Company for any lawful purpose. The relocation assistance, the permit fee grant, and the local enterprise zone incentives will reflect cost savings to the Company. Notwithstanding anything contained in this Agreement to the contrary, the Company and VEDP acknowledge and agree that the value of the relocation assistance, the permit fee grant, and the local enterprise zone incentives are based upon the estimated value of the availability of those incentives to the Company and are in an “up to” or “not to exceed” amount. The Company and VEDP further acknowledge and agree that so long as such incentives are made available to the Company, the Locality shall be deemed to have met its obligations related thereto and met its local match requirement in the amount corresponding thereto, regardless of whether the Company avails itself of any particular incentive, in whole or

in part.

(c) *Other Incentives:* This Agreement relates solely to the COF Grant. The qualification for, and payment of all State-Level Incentives and Local-Level Incentives, except for the COF Grant, will be governed by separate arrangements between the Company and the entities offering the other incentives. Any Local-Level Incentives involving monetary payments to the Company are subject to appropriation by the Council and to the provisions contained in Section 4(b).

## **Section 5. Company Reporting.**

(a) *Progress Reporting:* The Company shall provide, at the Company's expense, in the form attached hereto as Exhibit A, detailed verification satisfactory to the Locality, the Authority, and VEDP of the Company's progress on the Targets. Such progress reports will be provided annually, starting on April 1, 2022, and covering the period through the prior December 31. Further, the Company shall provide such progress reports at such other times as the Locality, the Authority, or VEDP may reasonably require.

With each such progress report, the Company shall report to VEDP the amount paid by the Company in the prior calendar year in Virginia corporate income tax. VEDP hereby represents to the Company that it considers such information to be confidential proprietary information that is exempt from public disclosure under the Virginia Freedom of Information Act and that such information will be used by VEDP solely in calculating aggregate return on invested capital analyses for purposes of gauging the overall effectiveness of economic development incentives.

(b) *Final Report:* The Company shall provide, at the Company's expense, in the form attached hereto as Exhibit B (the "Final Report"), detailed verification satisfactory to the Locality, the Authority, and VEDP of the Company's achievement of the Targets as of the Performance Date. If the Company wishes to count as New Jobs the net new jobs in the Commonwealth for contractors or employees of contractors, as described in the definition of "New Job," the Company will be responsible for providing to the Locality, the Authority and VEDP the documentation necessary to verify the qualification of such net new jobs as New Jobs. The Final Report shall be filed within 90 days after the Performance Date.

## **Section 6. Verification of Targets.**

(a) *Verification of Capital Investment:* The Company hereby authorizes the Locality, including the Locality's Department of Finance, to release to VEDP the Company's real estate tax, business personal property tax and machinery and tools tax information. Such information shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the Capital Investment Target. If the Locality's Department of Finance 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 may be required. In accordance with Virginia Code Section 58.1-



3122.3, VEDP is entitled to receive the Company's real estate tax, business personal property tax and machinery and tools tax information from the Locality.

(b) *Verification of New Jobs and Wages:* The Company must submit copies of its four most recent Employer's Quarterly Tax Reports (Form FC-20) with the Virginia Employment Commission with the Final Report. The forms shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the New Jobs Target. In accordance with Virginia Code Section 60.2-114, VEDP is entitled to receive the Company's employment level and wage information from the Virginia Employment Commission.

The Company agrees that it will report to the Virginia Employment Commission with respect to its employees at a facility-level, rather than at the company-level.

(c) *Additional Documentation:* In addition to the verification data described in subsections (a) and (b), in the sole discretion of the Locality, the Authority, or VEDP, the Locality, the Authority, or VEDP, may each require such other documentation, including invoices or audits, as may be required to properly verify the Targets.

**Section 7. Inability to Comply.**

If the Locality or VEDP shall reasonably determine at any time prior to the Performance Date that the Company is unable or unwilling to meet and Maintain its Targets by and through the Performance Date, and if the Locality, the Authority or VEDP shall have promptly notified the Company of such determination, the Company's rights hereunder will automatically terminate and the COF Grant will be simultaneously and irrevocably withdrawn. Such a determination will be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the Facility by the Company or other similar significant event that demonstrates that the Company will be unable or is unwilling to satisfy the Targets for the COF Grant. In the event the Company disagrees with the assessment by the Locality or VEDP under this Section 7, the Company may dispute said assessment by recourse to the procedure outlined in Section 9(f) (Dispute Resolution).

**Section 8. Notices.**

Formal notices and communications between the parties shall be given either by (i) personal service, (ii) delivery by a reputable document delivery service that provides a receipt showing date and time of delivery, (iii) mailing utilizing a certified or first class mail postage prepaid service of the United States Postal Service that provides a receipt showing date and time of delivery. Notices and communications personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices and communications mailed shall be deemed effective on the second business day following deposit in the United States mail. Notices and communications delivered by email shall be deemed effective the next business day, not less than 24 hours, following the date of transmittal and confirmation of delivery to the intended recipient. Such written notices and communications shall be addressed to:

if to the Company, to:

and to:

GSK Consumer Healthcare  
184 Liberty Corner Road  
Warren, NJ 07059  
Email: Peter.J.Ramsey@GSK.COM  
Attention: Peter J. Ramsey, PhD, Vice  
President & Head, GSK R&D

184 Liberty Corner Road  
Warren, NJ 07059  
Email: Gregory.G.Tole@GSK.COM  
Attention: Gregory Tole, Vice President  
GSK Consumer Healthcare  
Legal Operations CH Americas

if to the Locality, to:

with a copy to:

City of Richmond, Virginia  
900 E. Broad St., Suite 201  
Richmond, Virginia 23219  
Email: rvamayor@richmondgov.com  
Attention: Mayor

City of Richmond, Virginia  
900 E. Broad St., Suite 400  
Richmond, Virginia 23219  
Email: bonnie.ashley@richmondgov.com  
Attention: City Attorney

if to the Authority, to:

with a copy to:

Economic Development Authority of the City  
of Richmond, Virginia  
1500 East Main Street  
Suite 400  
Richmond, Virginia 23219  
Email: John.Molster@truist.com  
Attention: Chair, Board of Directors

Economic Development Authority of the City of  
Richmond, Virginia  
2401 W Leigh Street  
Richmond, Virginia 23220  
Email: Carla.childs@richmondgov.com  
Attention: Management Analyst

if to VEDP, to:

with a copy to:

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Email: moret@vedp.org  
Attention: President and CEO

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Email: smcninch@vedp.org  
Attention: General Counsel

**Section 9. Miscellaneous.**

(a) *Entire Agreement; Amendments:* This Agreement constitutes the entire agreement among the parties hereto as to the COF Grant and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Locality, the Authority and VEDP, provided however that no prior consent shall be required for an assignment of Company's rights or obligations under this Agreement in whole or in part by

the Company pursuant to a Corporate Divestment.

(b) *Governing Law; Venue:* This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced in accordance with the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the City of Richmond, and such litigation shall be brought only in such court.

(c) *Counterparts:* This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

(d) *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 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.

(e) *Attorneys' Fees:* Attorneys' fees shall be paid by the party incurring such fees.

(f) *Dispute Resolution:* In the event of any dispute, controversy or claim of any kind or nature arising under or in connection with this Agreement (including disputes as to the creation, validity, or interpretation of this Agreement) (a "Dispute"), then upon the written request of any party, each of the parties will appoint a designated senior executive whose task it will be to meet for the purpose of endeavoring to resolve the Dispute. The designated executives will meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. Such executives will discuss the Dispute and will negotiate in good faith in an effort to resolve the Dispute without the necessity of any formal proceeding relating thereto. The specific format for such discussions will be left to the discretion of the executives but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other party. No formal proceedings for the resolution of the Dispute may be commenced until the earlier to occur of (a) a good faith mutual conclusion by the executives that amicable resolution through continued negotiation of the matter in issue does not appear likely or (b) the 90<sup>th</sup> day after the initial request to negotiate the Dispute. If the resolution of the Dispute requires any party to take, or cause to be taken or to cease taking, some action, such party shall be provided a reasonable period of time, not to exceed ninety (90) days, to take, to cause, or to cease taking, such action.

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the parties hereto have caused this Performance Agreement to be executed below by their duly authorized representatives, as of the date first above written.

**CITY OF RICHMOND, VIRGINIA**

APPROVED AS TO FORM:

*Bonnie M. Ashley*

\_\_\_\_\_  
Deputy City Attorney

By *Lincoln Saunders*  
Name: J. E. Lincoln Saunders  
Title: Chief Administrative Officer  
Date: 5/23/22

**ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF RICHMOND, VIRGINIA**

By \_\_\_\_\_  
Name: John Molster  
Title: Chair  
Date: May 12, 2022

**ALACER CORP.**

*Lisa D Paley*  
By \_\_\_\_\_  
Name: Lisa D Paley  
Title: SVP Alacer Corp US  
Date: July 7, 2021

**VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP AUTHORITY**

DocuSigned by:  
*Jason El Koubi*  
By \_\_\_\_\_  
Name: Jason El Koubi  
Title: President & CEO  
Date: 7/4/2022

Exhibit A: Annual Progress Report Form  
Exhibit B: Final Report Form

Exhibit A

**ANNUAL PROGRESS REPORT  
COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND**

**PROJECT SUMMARY:**

Project	
Location	
Amount of Grant	
Performance Reporting Period	
Performance Date	

**PROJECT PERFORMANCE:**

<b>Performance Measurement</b>	<b>Target</b>	<b>As of _____</b>	<b>% Complete</b>
<b>New Jobs</b> (over ___ baseline) <sup>1</sup>			
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Capital Investment</b> (provide breakdown below) <sup>2</sup>			
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Average Annual Wage</b>			N/A
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Standard Fringe Benefits</b> (check one)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A
<b>Virginia Corporate Income Tax Paid in Prior Calendar Year</b> <sup>3</sup>	\$		

<sup>1</sup> Data will be verified using Virginia Employment Commission records.

<sup>2</sup> Data will be verified with locality records.

<sup>3</sup> This confidential information is protected from disclosure pursuant to § 2.2-3705.6 of FOIA.

<b>Capital Investment Breakdown</b>	<b>Amount</b>
Land	\$
Land Improvements	\$
New Construction or Expansion	\$
Renovation or Building Up-fit	\$
Production Machinery and Tools	\$
Furniture, Fixtures and Equipment	\$
Other	\$
<b>Total</b>	<b>\$</b>

**COMMENTS:**

Discuss project status, including the current level of new jobs and capital investment, progress on targets, changes or likely changes in project’s nature that may impact achievement of targets, and other information relevant to project performance. If the project is not on track to meet targets, please provide an explanation.

**TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:**

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

Name: \_\_\_\_\_  
Print Name

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Please return to:

Kim Ellett, Incentives Coordinator, Virginia Economic Development Partnership,  
804.545.5618, kellett@vedp.org

## FINAL REPORT COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

### PROJECT SUMMARY:

Project	
Location	
Amount of Grant	
Performance Date	

### PROJECT PERFORMANCE:<sup>1</sup>

Performance Measurement	Target	As of _____	% Complete
<b>New Jobs</b> (over __ baseline) <sup>2</sup>			
<b>Capital Investment</b> (provide breakdown below) <sup>3</sup>			
<b>Average Annual Wage</b>			N/A
<b>Standard Fringe Benefits</b>			
<b>Virginia Corporate Income Tax Paid in Prior Calendar Year</b> <sup>4</sup>	\$		

Capital Investment Breakdown	Amount
Land	\$
Land Improvements	\$
New Construction or Expansion	\$
Renovation or Building Up-fit	\$
Production Machinery and Tools	\$
Furniture, Fixtures and Equipment	\$
Other	\$
<b>Total</b>	<b>\$</b>

<sup>1</sup> Final, actual performance will be reported on VEDP's public reporting website.

<sup>2</sup> Attach the company's four most recent Quarterly Tax Reports (Form FC-20) filed with the Virginia Employment Commission.

<sup>3</sup> Data will be verified using records from the Commissioner of the Revenue and, if requested, invoices.

<sup>4</sup> This confidential information is protected from disclosure pursuant to § 2.2-3705.6 of FOIA.

**LOCAL MATCH:**

Goal	
Actual	

**COMMENTS:**

Discuss Project status or the importance of the Project to the locality and region.

**TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:**

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

Name: \_\_\_\_\_  
Print Name

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Please return to:

Kim Ellett, Incentives Coordinator, Virginia Economic Development Partnership,  
804.545.5618, kellett@vedp.org