

INTRODUCED: April 11, 2022

AN ORDINANCE No. 2022-118

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Commonwealth's Development Opportunity Fund Performance Agreement between the City of Richmond, CarLotz Group, Inc., the Economic Development Authority of the City of Richmond, and the Virginia Economic Development Partnership Authority for the purpose of providing CarLotz Group, Inc. with incentives to establish an office facility for the relocation of its corporate headquarters and to improve, equip, and operate a new facility at 1501 Roseneath Road in the city of Richmond.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: APR 25 2022 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, be and is hereby authorized to execute a Commonwealth's Development Opportunity Fund Performance Agreement between the City of Richmond, Virginia, CarLotz Group, Inc., the Economic Development Authority of the City of Richmond, and the Virginia Economic Development Partnership Authority for the purpose of providing CarLotz Group, Inc. with

AYES: 8 NOES: 0 ABSTAIN: _____

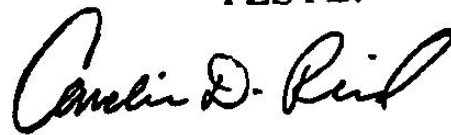
ADOPTED: APR 25 2022 REJECTED: _____ STRICKEN: _____

incentives to establish an office facility for the relocation of its corporate headquarters and to improve, equip, and operate a new facility at 1501 Roseneath Road in the city of Richmond. The Commonwealth's Development Opportunity Fund Performance Agreement shall be approved as to form by the City Attorney and shall be substantially in the form of the document attached to this ordinance.

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

A TRUE COPY:

TESTE:

A handwritten signature in black ink, appearing to read "Carolin D. Reil". The signature is fluid and cursive, with the first name "Carolin" being more prominent than the last name "Reil".

City Clerk

2022-073



O&R REQUEST

DATE: April 1, 2022

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: Lincoln Saunders, Chief Administrative Officer

THROUGH: Sabrina Joy-Hogg, Deputy Chief Administrative Officer for Finance and Administration

THROUGH: Sheila White, Director of the Department of Finance

THROUGH: Jason May, Director of the Department of Budget and Strategic Planning

THROUGH: Sharon L. Ebert, Deputy Chief Administrative Officer for Planning and Economic Development

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

RE: Approval of Commonwealth Opportunity Fund Performance Agreement for CarLotz Group, Inc.

ORD. OR RES. No. _____

PURPOSE: To approve the Commonwealth Development Opportunity Fund Performance Agreement for CarLotz Group, Inc.

REASON: To authorize the Chief Administrative Officer to sign the Commonwealth Opportunity Fund Performance Agreement for CarLotz Group, Inc. by and between the City of Richmond, Virginia, the Economic Development Authority of the City of Richmond, CarLotz Group, Inc., and the Virginia Economic Development Partnership.

RECOMMENDATION: Approval is requested by the Administration.

BACKGROUND: In June 2021 CarLotz Group, Inc. announced that the company is expanding its headquarters in the City of Richmond. The Commonwealth of Virginia has approved a \$700,000 performance based grant from the Commonwealth Development Opportunity Fund to induce the company's decision to make a capital investment of \$1.5 million and create 192 new jobs that pay an average annual wage of \$96,280 in the city. The City is required to make a 1:1 match to the Commonwealth Development Opportunity Fund grant. The City's 1:1 match will be from the company applying to receive benefits from the City's existing Local Enterprise Zone Program, a local performance based grant from the City of Richmond, and an in-kind match credit for the capital improvement project (infrastructure) to create the planned Scott's Addition Trail.

FISCAL IMPACT / COST: The project is estimated to generate \$170,000 in new General Fund revenue during the first five years of the project. The required 1:1 local match to the Commonwealth Development Opportunity Fund grant is \$700,000. The local match will be made through the existing Local Enterprise Zone Program, a local performance based grant from the City of Richmond, and an in-kind match credit for the capital improvement project (infrastructure) to create the planned Scott's Addition Trail. The cash portion of the required match is \$137,400.

FISCAL IMPLICATIONS: Adoption of this Ordinance will not negatively affect the fiscal status of the City (including the City's debt capacity, bond rating, or long-term expenditures). Adoption of the Ordinance does result in increasing General Fund revenue for the City.

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: The project is estimated to generate \$170,000 in new General Fund revenue over the first five years of the project.

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: April 11, 2022

CITY COUNCIL PUBLIC HEARING DATE: April 25, 2022

REQUESTED AGENDA: Consent.

RECOMMENDED COUNCIL COMMITTEE: Finance and Economic Development

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: The Economic Development Authority.

AFFECTED AGENCIES: Finance; Budget and Strategic Planning; and Economic Development

RELATIONSHIP TO EXISTING ORD. OR RES.: N/A

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Commonwealth Development Opportunity Fund Performance Agreement

STAFF: Leonard Sledge, Director of Economic Development – (804) 646-7576

COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND
PERFORMANCE AGREEMENT

This **PERFORMANCE AGREEMENT** (this "Agreement") is made and entered as of the 7th day of February, 2022, by and among the **CITY OF RICHMOND, VIRGINIA** (the "Locality"), a municipal corporation of the Commonwealth of Virginia (the "Commonwealth"), **CARLOTZ GROUP, INC.** (the "Company"), a Delaware corporation authorized to transact business in the Commonwealth, 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 \$700,000 (the "COF Grant") from the Commonwealth's Development Opportunity Fund (the "Fund") through VEDP for the purpose of inducing the Company to renovate, equip, improve, and operate an office facility for the relocation of its corporate headquarters to the Handcraft Building located at 1501 Roseneath Road, Richmond, Virginia 23230 (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, and the obligations of the Company regarding Capital Investment and New Jobs;

WHEREAS, the renovation, equipping, improvement and operation of the Facility will entail a capital expenditure by or on behalf of the Company of approximately \$1,500,000, of which approximately \$600,000 will be invested in furniture, fixtures and business personal property, and approximately \$900,000 will be invested in the improvement and up-fit of the building for the Facility;

WHEREAS, the renovation, equipping, improvement and operation of the Facility will further entail the creation and Maintenance of 192 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. The purchase or lease of furniture, fixtures, and business personal property, including under an operating lease, and expected building up-fit and improvements 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 April 1, 2021.

“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 or otherwise in the City of Richmond and assigned to 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 \$96,280. Average annual wage means the average annual salary of full-time positions at the Facility or otherwise in the City of Richmond and assigned to the Facility determined by dividing total payroll (of a type included in W-2 compensation) provided to full-time positions at the Facility or otherwise in the City of Richmond and assigned to the Facility by the number of full-time positions at the Facility or otherwise in the City of Richmond and assigned to the Facility, taking into account only new permanent full-time positions at the Facility or otherwise in the City of Richmond and assigned to the Facility created or filled after March 1, 2021. 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, 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 73 full-time positions at the Company’s current headquarters facility located elsewhere in the Locality, as of March 1, 2021, all of which are expected to be transferred to the Facility. New Jobs may include remote positions that otherwise satisfy the above requirements, but do not include positions at the Company’s retail operations.

“Performance Date” means June 30, 2025. 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 Company and the Board of Directors of VEDP. 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 to make or cause to be made and retained Capital Investments at the Facility of at least \$1,500,000 and to create and Maintain at least 192 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 or cause to be made and retained a Capital Investment of at least \$1,500,000, and create and Maintain at least 192 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 average annual wage of the New Jobs of at least \$96,280 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 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.

(e) *Support for Virginia's and Locality's Economic Development Efforts:* Recognizing that it is in the best interest of all parties for the Commonwealth and the Locality to achieve sustained economic growth, the parties will periodically engage with one another to advise on economic development strategies and initiatives for the Commonwealth and the

Locality, such as promoting the attributes of the Commonwealth and the Locality as great places to do business, or highlighting important industry trends and/or business development opportunities that the Commonwealth or the Locality may wish to pursue. Such engagement would include the Company's participation in occasional business retention and expansion visits from VEDP or Locality personnel, as deemed appropriate based on the project parameters and nature of the incentives provided to the Company.

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 Performance Date Report described in Section 5(b). Through this report, the Company will provide notice and evidence to the Locality, the Authority and VEDP of the amount of Capital Investments made or caused to be made and retained, and the number of New Jobs created and Maintained, as of the Performance Date. The report will be subject to verification by the Locality and VEDP.

Upon such verification, the amount of the COF Grant proceeds to be disbursed shall be calculated as follows:

If Statutory Minimum Requirements Not Met: If, as of the Performance Date, the Company has not made or caused to be made and retained Capital Investments of at least \$1,500,000 and created and Maintained at least 15 New Jobs, it will not receive any of the proceeds of the COF Grant. These are the statutory minimum requirements (the "Statutory Minimum Requirements") for a grant from the Fund under the Virginia Code for a project located in the Locality.

If Targets Met: If, as of the Performance Date, the Company has made or caused to be made and retained Capital Investments of at least \$1,500,000 and created and Maintained at least 192 New Jobs, the Company will receive all \$700,000 of the proceeds of the COF Grant.

If Statutory Minimum Requirements Met and Targets Not Met: If, as of the Performance Date, the Company has achieved the Statutory Minimum Requirements, but has not created and Maintained at least 192 New Jobs, 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% (\$70,000) for the Company's Capital Investment Target, and 90% (\$630,000) of the Company's New Jobs Target. If the Company has achieved the Statutory Minimum Requirements, but has not fully achieved the Targets, the Company will not receive that part of the COF Grant that is proportional to the shortfall from the New Jobs Target. For example, if as of the Performance Date, \$1,500,000 of the Capital Investment has been made and retained (reflecting achievement of 100% of the Capital Investment Target), and only 96 New Jobs have been created and Maintained (reflecting achievement of 50% of the New Jobs Target), the Company

will receive \$70,000 (reflecting 100% of the \$70,000 allocated to the Capital Investment Target), *plus* \$315,000 (reflecting 50% of the \$630,000 allocated to the New Jobs Target), for a total of \$385,000. These amounts reflect the percentage of the shortfall from the expected number of New Jobs, multiplied by the portion of the COF Grant proceeds available to the Company allocated to the New Jobs Target. Since the Capital Investment Target of \$1,500,000 is the same as the Statutory Minimum Requirement for capital expenditures, the Company must make or cause to be made and retained Capital Investments of at least \$1,500,000 to receive any of the COF Grant proceeds.

The COF Grant proceeds shall be retained in the Fund until needed for disbursement or the COF Grant is withdrawn in accordance with the terms of this Agreement. Within 30 days after verification of the Performance Date Report, if any amount of COF Grant proceeds are available for disbursement to the Company, as determined in accordance with the foregoing calculations, VEDP will disburse that amount to the Locality. Within 30 days after receipt of such amount, with “receipt” meaning both acceptance of the COF Grant proceeds by the City Council of the City of Richmond, Virginia (“Council”) and the appropriation by Council of such COF Grant proceeds to the Authority, the Locality will disburse such COF Grant proceeds to the Authority. Within 30 days after receipt of such amount (“receipt” meaning the acceptance by the Authority of such proceeds), the Authority will disburse such COF Grant proceeds to the Company.

If no COF Grant proceeds are available for disbursement to the Company, as determined in accordance with the foregoing calculations, then, automatically: (i) the Company’s rights under this Agreement will terminate, (ii) the COF Grant will be withdrawn, and (iii) the proceeds of the COF Grant retained in the Fund will be freed for redeployment to support other economic development projects, as permitted by the Virginia Code. If less than \$700,000 of the COF Grant proceeds are available for disbursement to the Company, as determined in accordance with the foregoing calculations, then, automatically, the amount of the proceeds of the COF Grant not available for disbursement to the Company and retained in the Fund will be freed for redeployment to support other economic development projects, as permitted by the Virginia Code.

(b) *Use of the COF Grant Proceeds:* The Company will use the COF Grant proceeds to pay or reimburse the costs of recruitment or training, as permitted by Section 2.2-115(D) of the Virginia Code.

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 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>
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COF Grant	\$700,000
Virginia Talent Accelerator Program (“VTAP”) (Estimated)	518,000
Enterprise Zone Job Creation Grant (“EZRPIG”) (Estimated)	668,000
Enterprise Zone Real Property Investment Grant (“EZJCG”) (Estimated)	8,193

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

(b) *Local-Level Incentives:* The Locality and the Authority expect 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>
In-Kind Infrastructure Improvements	\$562,600
Local Cash Grant	100,000
Local Enterprise Zone Benefits	37,400

Notwithstanding anything contained in this Agreement to the contrary, the Company and VEDP acknowledge and agree that the value of the Local Enterprise Zone Benefits is based upon the estimated value of the availability of that incentive to the Company and is conditioned upon the application for, approval of, and utilization of such incentive by the Company. The Company and VEDP further acknowledge and agree that 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 applies for, is approved for, or utilizes the Enterprise Zone Benefits. Under no circumstance will the Locality be obligated to make any additional grant to the Company of the difference between the estimated value of the Enterprise Zone Benefits and the actual amount of such benefits received by the Company or in any amount whatsoever.

The in-kind infrastructure improvement (“Scott’s Addition Green Space”) will benefit the Company and the surrounding neighborhood and allows for the construction of a pedestrian and bike trail in the Scott’s Addition Neighborhood. The Scott’s Addition Green Space is an active project in the City’s Capital Improvement Plan Budget for the City’s Fiscal Years 2021-2025. The Company and VEDP acknowledge and agree that the value of the Scott’s Addition Green Space is an estimate based on current and expected appropriations and is subject to amendment by the City Council of the City of Richmond. The Company and VEDP acknowledge and agree that such amendment, or a non-appropriation of funds, or construction valued at less than \$562,600, will not obligate the City to make any additional monetary grant to the Company in any amount. The proceeds of the local cash grant serve as an inducement to the Company to maintain its corporate headquarters in the Locality through the Performance Date. The local Enterprise Zone benefits will reflect cost savings to the Company.

(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.

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 at October 1, 2022, and covering the period through the prior June 30. Further, the Company shall provide progress reports at such other times as the Locality, the Authority, or VEDP may reasonably require.

(b) *Performance Date Report:* The Company shall provide, at the Company's expense, in the form attached hereto as Exhibit B (the "Performance Date Report"), detailed verification satisfactory to the Locality, the Authority, and VEDP of the Company's achievement of the Targets. The Performance Date Report shall be filed within 90 days after the Performance Date.

Should the Company be unable to file the Performance Date Report within the 90-day timeframe, the Company may request a 60-day delay in filing the Performance Date Report. VEDP will require a \$3,000 fee, payable to VEDP, to process the request for the filing delay. Should the Company not file the Performance Date Report within the 90-day window nor request a filing delay (including payment of the required fee), or if the Company requests a filing delay but does not file the Performance Date Report prior to the new filing deadline, VEDP will withhold any COF Grant payment that might otherwise be due and all rights of the Company under this Agreement will automatically terminate.

(c) *Virginia Corporate Income Tax Information:* With each such progress report and the Performance Date Report, the Company shall report to VEDP the amount paid by the Company (or for a pass-through entity, by its shareholders, members or partners) in the prior calendar year in Virginia corporate (or for a pass-through entity, personal) 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.

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 or 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 the Locality or VEDP may request. 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's Department of Finance.

(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), as filed with the Virginia Employment Commission, with the Performance Date 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 above, in the sole discretion of the Locality, the Authority, or VEDP, the Locality, the Authority or VEDP, may each require such other documentation or audits as may be reasonably required to properly verify the Capital Investment and New Jobs.

Section 7. Redeployment.

If the Locality, the Authority or VEDP shall 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, then, automatically: (i) the Company's rights under this Agreement will terminate, (ii) the COF Grant will be withdrawn, and (iii) the proceeds of the COF Grant retained in the Fund will be freed for redeployment to support other economic development projects, as permitted by the Virginia Code. 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.

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, or (iv) delivery by electronic mail (email) with transmittal confirmation and confirmation of delivery, addressed as noted below. 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:

Carlotz Group, Inc.
3301 W. Moore Street
Richmond, VA 23230
Email: mbor@carlotz.com
Attention: Michael W. Bor

with a copy to:

Troutman Pepper Hamilton Sanders LLP
1001 Haxall Point, Suite 1500
Richmond, VA 23219
Email: Anne.Loomis@troutman.com
Attention: Anne C. Loomis

if to the Locality, to:

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

with a copy to:

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:

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

with a copy to:

Economic Development Authority of the
City of Richmond, Virginia
500 E. Main Street, Suite 400
Richmond, Virginia 23219
Email: carla.childs@richmondgov.com
Attention: Management Analyst, Senior

if to VEDP, to:

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

with a copy to:

Virginia Economic Development Partnership
One James Center, Suite 900
901 East Cary Street
Richmond, Virginia 23219
Email: generalcounsel@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.

(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) *Force Majeure:* Notwithstanding the foregoing provisions of this Agreement, if the Company does not achieve a Target or take any action required under this Agreement because of an "Event of Force Majeure" (as defined below), the time for achieving the applicable Target or taking such action will be extended day-for-day by the delay in meeting the applicable Target or taking such action caused by the Event of Force Majeure. "Event of Force Majeure" means without limitation, any of the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; pandemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals not caused by the Company; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Company.

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this 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:




Deputy City Attorney

By _____
Name: _____
Title: _____
Date: _____

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

By _____
Name: _____
Title: _____
Date: _____

CARLOTZ GROUP, INC.

By  _____
Name: Michael Bor _____
Title: CEO _____
Date: 2/7/2022 _____

**VIRGINIA ECONOMIC DEVELOPMENT
PARTNERSHIP AUTHORITY**

By _____
Name: _____
Title: _____
Date: _____

Exhibit A: Annual Progress Report Form
Exhibit B: Performance Date Report Form

ANNUAL PROGRESS REPORT COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

PROJECT SUMMARY:

Project
Location
Amount of Grant
Performance Reporting Period
Performance Date

PROJECT PERFORMANCE:

Performance Measurement	Target	As of _____	% Complete
New Jobs (over ____ baseline) ¹			
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"/>
Capital Investment (provide breakdown below) ²			
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"/>
Average Annual Wage			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"/>
Standard Fringe Benefits (check one)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A
Virginia Corporate Income Tax Paid in Prior Calendar Year ³	\$		

¹ Data will be verified using Virginia Employment Commission records.

² Data will be verified with locality records.

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

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	
Total	\$

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 Compliance Manager, Virginia Economic Development Partnership,
804.545.5618, kellett@vedp.org

PERFORMANCE DATE REPORT

COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

PROJECT SUMMARY:

Project
Location
Amount of Grant
Performance Date

PROJECT PERFORMANCE:¹

Performance Measurement	Target	As of _____	% Complete
New Jobs (over __ baseline) ²			
Capital Investment (provide breakdown below) ³			
Average Annual Wage			N/A
Standard Fringe Benefits			
Virginia Corporate Income	\$		
Tax Paid in Prior Calendar Year⁴			

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

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

³ Data will be verified using records from the Department of Finance, and, if requested, invoices.

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

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	
Total	\$

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 Compliance Manager, Virginia Economic Development Partnership,
804.545.5618, kellett@vedp.org