

MOTION: LAWSON

**March 8, 2016
Regular Meeting
Res. No. 16-341**

SECOND: CANDLAND

RE: AUTHORIZE THE EXECUTION OF A PERFORMANCE AGREEMENT BETWEEN IRON MOUNTAIN INFORMATION MANAGEMENT, LLC AND THE INDUSTRIAL DEVELOPMENT AUTHORITY OF PRINCE WILLIAM COUNTY AND ASSIGN \$500,000 IN WATER AND SEWER AVAILABILITY FEE CREDITS TO THE INDUSTRIAL DEVELOPMENT AUTHORITY AS AN INCENTIVE TO IRON MOUNTAIN INFORMATION MANAGEMENT, LLC FOR USE IN CONSTRUCTION AND OPERATION OF IRON MOUNTAIN INFORMATION MANAGEMENT, LLC'S DATA CENTER PROJECT TO BE LOCATED AT 11650 HAYDEN ROAD IN PRINCE WILLIAM COUNTY, AND AUTHORIZE USE OF THE WATER AND SEWER CREDITS BY IRON MOUNTAIN INFORMATION MANAGEMENT, LLC – BRENTSVILLE MAGISTERIAL DISTRICT

ACTION: APPROVED

WHEREAS, Prince William County has identified information technology as a targeted industry; and

WHEREAS, the County, in its adopted 2013-2016 Strategic Plan, includes five economic development outcomes, three of which are addressed by this request: increase total at-place employment to 118,000; attract 1,200 new jobs in targeted industries; and attract \$800,000,000 in private sector investment in new and expanded businesses; and

WHEREAS, Prince William County is in competition with other localities in the Metro Washington D.C. area and other states for the location of Iron Mountain Information Management, LLC's data center campus; and

WHEREAS, Iron Mountain Information Management, LLC has under contract the purchase of approximately 83 acres of land at 11650 Hayden Road in Prince William County; and

WHEREAS, the Prince William Board of County Supervisors is interested in providing funds for this incentive program administered by the Industrial Development Authority of Prince William County to Iron Mountain Information Management, LLC which, as a condition to receiving this incentive, would agree to: 1) construct and manage a 375,000 square foot data center campus at 11650 Hayden Road in Prince William County, or invest \$350,000 million in this data center campus; and 2) hire 25 new full-time staff at the Prince William facility by March 1, 2021;

March 8, 2016
Regular Meeting
Res. No. 16-341
Page Two

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors does hereby authorize the Industrial Development Authority to execute a performance agreement with Iron Mountain Information Management, LLC in a form approved by the County Attorney, and in substantially the form attached to this resolution;

BE IT FURTHER RESOLVED that the Prince William Board of County Supervisors does hereby authorize the assignment of \$500,000 in water and sewer availability fee credits from Prince William County to the Industrial Development Authority as an incentive to Iron Mountain Information Management, LLC for use in construction and operation of Iron Mountain Information Management, LLC's data center campus to be located at 11650 Hayden Road;

BE IT FURTHER RESOLVED that the Prince William Board of County Supervisors does hereby authorize the use of the sewer and water credits by Iron Mountain Information Management, LLC.

ATTACHMENT: Performance Agreement between Industrial Development Authority and Iron Mountain Information Management, LLC

Votes:

Ayes: Anderson, Caddigan, Candland, Jenkins, Lawson, Nohe, Principi, Stewart

Nays: None

Absent from Vote: None

Absent from Meeting: None

For Information:

Economic Development Department

ATTEST: _____


Clerk to the Board

AGREEMENT

THIS AGREEMENT (herein referred to as "Agreement"), made this 3rd day of March 2016, by and between the **INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF PRINCE WILLIAM** (hereinafter referred to as "IDA"), a political subdivision of the Commonwealth of Virginia, and **IRON MOUNTAIN INFORMATION MANAGEMENT, LLC** (hereinafter referred to as "Iron Mountain"), a Delaware limited liability company, registered to do business in the Commonwealth of Virginia.

WITNESSETH:

WHEREAS, the IDA has been created to promote the economic development of Prince William County, Virginia (the "County") pursuant to enabling legislation under Section 15.2-4900 *et seq.*, Code of Virginia of 1950, as amended; and

WHEREAS, the IDA has authority to make grants of money or property for the purposes of economic development pursuant to Section 15.2-4905, Code of Virginia of 1950, as amended; and

WHEREAS, Iron Mountain is seeking to locate in the County in order to conduct business in the information technology sector; and

WHEREAS, Iron Mountain is purchasing land at 11650 Hayden Road in the County; and

WHEREAS, Iron Mountain desires certain financial assistance in order to finalize its location in the County; and

WHEREAS, recruitment and expansion of information technology companies is an important part of the County's economic development effort; and

WHEREAS, this Agreement is consistent with the agreement entered into by and between the IDA and the Board of County Supervisors (the "County Board") for granting incentives to industries locating or expanding facilities in the County in order to promote long-term economic development in the County; and

WHEREAS, it is in the public interest of the citizens of the County for the IDA to assist with the location of the new Iron Mountain data center campus in the County, which will benefit the County by enhancing it as a location for information technology companies, thereby promoting the health, safety, welfare, convenience and prosperity of the citizens of the County; and

WHEREAS, upon execution of this Agreement, and a written request from Iron Mountain, the County Board will assign to the IDA water and sewer availability fee credits in the amount of \$500,000, in accordance with the schedule contained in Paragraph 1 of this Agreement, for the purpose of the IDA in turn, granting the fee credits to Iron Mountain to offset construction costs and assist Iron Mountain in the location of its data center campus in the County; and

WHEREAS, Iron Mountain has announced its intention to locate a data center campus of at least three data center buildings in the County, and

WHEREAS, it is anticipated that 1) Iron Mountain and its partners/customers/tenants will invest \$350,000,000 in 375,000 square feet of new buildings and associated infrastructure equipment at the new location over five years or 60 months; and 2) Iron Mountain will hire 25 full time staff over five years or 60 months (hereinafter referred to as the "Project"); and

WHEREAS, it is anticipated that Iron Mountain will enter into contracts with partners/customers/tenants who will make additional investments in the buildings and hire 25 additional full time staff over five years or 60 months; and

WHEREAS, the County Board has duly authorized and committed the water and sewer availability fee credits, which are to be assigned to the IDA for use in helping to offset construction costs and assist Iron Mountain in the location of the Project in the County pursuant to Resolution #16- _____; and

WHEREAS; the County Board has duly authorized use of the water and sewer credits by Iron Mountain; and

WHEREAS, the IDA and Iron Mountain desire to enter into this Agreement to memorialize the understandings and conditions under which the financial incentives described herein will be provided to Iron Mountain in connection with its Project in the County, and to set forth the obligations and responsibilities of the parties in connection therewith;

NOW, THEREFORE, in consideration of the mutual promises of the parties and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby state and agree as follows:

1. The IDA agrees to grant to Iron Mountain \$500,000 in water and sewer availability fee credits, following receipt from the County Board, to be provided upon written request from Iron Mountain containing payment instructions in accordance with the following schedule: (a) \$250,000 upon commencement of the first 140,000 square foot or larger data center building; and (b) \$250,000 upon commencement of the second 120,000 square foot or larger data center building. For the purposes of this Agreement, commencement is defined as the pouring of footers for each of the two buildings.

2. Iron Mountain agrees to locate a new data center campus in the County meeting all of the criteria of the "Project" set forth heretofore in this Agreement.
3. If Iron Mountain and its partners fail to: 1) construct or have constructed on their behalf 375,000 square feet of data center and associated support space by March 1, 2021, *or* 2) invest \$350 million in data center campus improvements at 11650 Hayden Road in the County by March 1, 2021 then Iron Mountain shall reimburse the IDA a proportional amount of the \$500,000 in water and sewer availability fee credits granted to and used by Iron Mountain as of that date. The amount of water and sewer availability fee to be reimbursed under this provision shall be the lesser of (i) that amount determined by multiplying the amount of water and sewer availability fee credits used by Iron Mountain as of March 1, 2021 by a fraction the numerator of which is the total square footage of data center campus constructed and operated by Iron Mountain on March 1, 2021 and the denominator of which is 375,000 square feet, which result will be multiplied by .75, or (ii) that amount determined by multiplying the amount of water and sewer availability fee credits used by Iron Mountain as of March 1, 2021 by a fraction the numerator of which is the total investment made by Iron Mountain and its customers/tenants/partners in the Project as of March 1, 2021 and the denominator of which is \$350 million, which result will be multiplied by .75.
4. If Iron Mountain fails to hire a full-time staff of at least 25 full-time employees with average annual compensation of not less than \$100,000 at 11650 Hayden Road in the County by March 1, 2021, then Iron Mountain shall reimburse the IDA a proportional amount of the \$500,000 in water and sewer availability fee credits granted to Iron Mountain. The amount of water and sewer availability fee to be reimbursed under this provision shall be determined by multiplying the amount of water and sewer availability fee credits used by Iron Mountain as of March 1, 2021 by a fraction the numerator of which is the number of full time staff employed at the data center meeting the compensation target described above and the denominator of which shall be 25, which result will be multiplied by .25.
5. Any reimbursement paid by Iron Mountain to the IDA under paragraph 3 or 4 shall be in cash and shall be repaid by the IDA to the County Board.
6. If Iron Mountain meets all of the requirements contained in this Agreement and receives water and sewer fee credits under this Agreement, but ceases operations of the data center campus in the County within seven years after the date of this Agreement, then Iron Mountain shall reimburse the IDA the lesser of \$250,000 or 50% of the water and sewer availability fee credits received and used by Iron Mountain. Any reimbursement paid by Iron Mountain to the IDA under this provision shall be in cash and repaid by the IDA to the County Board.

7. If Iron Mountain is delayed in the performance of its obligations hereunder and such delay is due to Force Majeure (defined as acts of nature, fire, catastrophic weather, explosion, riot, war or labor strike or any other extraordinary cause beyond Iron Mountain's control), such Force Majeure prevents Iron Mountain from timely completing its performance obligations under this Agreement and Iron Mountain gives prompt notice of such Force Majeure to the IDA and the County Board and has made reasonable efforts to mitigate the effects thereof, then Iron Mountain may request an extension of the performance commitments contained herein from the County Board; any such extension shall not exceed six (6) months and shall not be unreasonably withheld.
8. Iron Mountain represents that it is a Delaware limited liability company in good standing with the Delaware Secretary of State, and is authorized to conduct business in Virginia, that its Board of Directors has approved the transaction contemplated by this Agreement under its corporate policies and procedures through formal resolution, that the undersigned is authorized to sign this Agreement on behalf of Iron Mountain, and that this Agreement will be binding on Iron Mountain and its successors and assigns. Iron Mountain agrees to provide proper documentation of the foregoing to the IDA prior to the disbursement of any credits to Iron Mountain.
9. At the IDA's written request or the written request of the IDA's designee, Iron Mountain agrees to report, document and verify to the IDA its compliance with the requirements of this Agreement. These reports shall be filed within thirty (30) days after the receipt of the written request. Unless the IDA has a reasonable basis to believe that Iron Mountain is not in compliance with its obligations under this Agreement, reports will not be requested more than once in any twelve-month period.
10. This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia.
11. This Agreement may be signed in counterparts, and such counterparts shall together constitute together an original.
12. This Agreement constitutes the full agreement between the parties and neither party shall be bound by any terms, conditions or representations not contained herein. This Agreement may be modified only by written agreement signed by both parties hereto with the same formality.
13. Any determination by the County Executive or his designee of fulfillment or non-fulfillment of the terms of this Agreement by Iron Mountain shall be binding on the IDA. The IDA may request such determinations by the County Executive as necessary.

14. The IDA shall have no responsibility to provide any credits to Iron Mountain beyond the amount of credits the IDA has received from or on behalf of the County Board for the purpose.

IN WITNESS WHEREOF, the parties hereto have hereafter set their signatures and seals by their respective duly authorized representatives.

ATTEST:

INDUSTRIAL DEVELOPMENT AUTHORITY
THE COUNTY OF PRINCE WILLIAM

Secretary/Treasurer

BY: _____

IRON MOUNTAIN INFORMATION
MANAGEMENT, LLC

BY: Mark N. Kidd
Authorized Representative Mark N. Kidd
Title SVP & GM, Data Centers