



DANVILLE CITY COUNCIL WORK SESSION AGENDA

MUNICIPAL BUILDING

October 4, 2018

7:30 P.M.

MEETING CALLED TO ORDER

MINUTES

- A. Consideration of Approval of Minutes from Regular Work Session held on August 21, 2018 and Regular Work Session held on September 4, 2018.
Council Letter Number CL - 2023

WORK SESSION ITEMS

- A. Consideration of Approval of a Franchise Agreement with Comcast.
Council Letter Number CL - 1990
- B. Consideration of Approval of an Agreement with Comcast for Educational and Government Access Channels.
Council Letter Number CL - 1991.
- C. Consideration of Approval of a Cost and Revenue Sharing Agreement for the Staunton River RIFA.
Council Letter Number CL - 2001.
- D. Discussion on Providing Free Bus Services to Polling Places During the November Election.
Council Letter Number CL - 2008

PROGRAM UPDATE

ECONOMIC DEVELOPMENT UPDATE

COMMUNICATIONS FROM

- A. City Manager
- B. Deputy City Manager
- C. City Attorney
- D. City Clerk
- E. Roll Call

CLOSED MEETING

As Permitted by Subsection (A)(3) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for discussion or consideration of the acquisition of real property or of the disposition of publicly held real property; and

As Permitted by Subsection (A)(5) of Section 2.2-3711 of the Code of Virginia, 1950, as amended for discussion concerning a prospective business or industry related to economic development.

- A. Motion to Convene in Closed Meeting
- B. Motion to Reconvene in Open Meeting
- C. Motion to Certify Closed Meeting

ADJOURNMENT

Council Letter

City of Danville, Virginia



CL-2003

Meeting Minutes Item #: A.

Work Session Meeting

Meeting Date: 10/04/2018

Subject: Consideration of Approval of Meeting Minutes

From: Susan M. DeMasi, City Clerk

COUNCIL ACTION

Work Session Meeting: 10/04/2018

SUMMARY

Consideration of Approval of Minutes from Regular Work Session held on August 21, 2018 and Regular Work Session held on September 4, 2018.

Council Letter Number CL - 2023.

Attachments

Meeting Minutes

Meeting Minutes

August 21, 2018

A Regular Work Session of the Danville City Council convened on August 21, 2018 at 7:55 p.m. in the Conference Room located on the Fourth Floor of the Municipal Building. Council Members present were: James B. Buckner, L. G. "Larry" Campbell Jr., Mayor Alonzo L. Jones, Dr. Gary P. Miller, Sherman M. Saunders, Fred O. Shanks, III, Adam J. Tomer, Vice Mayor J. Lee Vogler, Jr., and Madison J.R. Whittle (9).

Staff Members present were: City Manager Ken Larking, Deputy City Manager Earl B. Reynolds, City Attorney W. Clarke Whitfield Jr., and City Clerk Susan M. DeMasi.

Mayor Jones presided.

MINUTES

Upon **Motion** by Council Member Saunders and **second** by Council Member Campbell, Minutes from the Special Budget Work Session held on June 5, 2018, Regular Work Session held on June 5, 2018 and Regular Work Session held on June 19, 2018, were approved as presented. Draft copies were distributed to Council Members prior to the Meeting.

WORK SESSION ITEMS

REVIEW OF GENERAL FUND FINANCIALS AS OF JUNE 30, 2018

Director of Finance Michael Adkins noted the preliminary results for FY2018 include all closing entries through the end of July. Mr. Adkins stated he was not aware of any large outstanding items, other than the City's actuarial report for the City's pension plan, but those adjustments do not affect the General Fund. At the end of the year, the Revenues finished very well, at 99.9% of budget. One reason Revenues did not exceed budget this year was Social Services; the City is reimbursed by the State for the programs that Social Services provides. If the City does not spend the money, it does not receive the money; their expenses were under budget this year. In the Revenue that relates to that, Categorical Aid from the State line item, the City only received 93% of the budget. The other shortcoming in the budget was the Telecommunications Tax, money that is paid to the State directly by the Telecommunications vendors and then passed to the localities. The City did have a shortfall there under Noncategorical Aid, the line item for that came in at 95% of budget. If it had not been for that, the City would have exceeded its revenue budget this year by about \$1M.

The big leaders this year are Property Taxes at 101% of budget, it was \$2.5M over the prior year and that relates to the increased real estate rate and personal property rate. Real Estate taxes came in very close to expectation at 99.9% of budget; Personal Property Taxes came in over budget at 104%. The City also saw an increase in the Machinery and Tools, which is indicative of the industry that the Economic Development department has been able to attract. Local taxes also came in at 101% of budget; sales tax, meals tax and lodging all came in right at or over budget. Sales tax saw an \$80,000 increase over last year, Meals Tax had a \$150,000 increase and Lodging came in at \$131,000 over; however, the City did have a Lodging Tax increase in FY2018 which gave the City the extra money. All other Revenue line items came in as expected.

Under Expenditures, the City spent 92% of budget, mainly due to the Schools who did not spend about \$4M of their budget. The agreement this year was to allow them to carry \$2M over for their salary funding for the coming year and they also had some excess put into their capital projects fund. The City's departmental spending came in at 96% of budget which is what staff usually expects, between 95 and 98%. Social Services was a contributor to that, at roughly \$960,000

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under budget in their Adoption Services. The City also had more in vacancy savings than anticipated; that was spread across the board, and vacancy and back salary impacts social security match and retirement contributions; it has a multiplier effect. Bottom line, the City budgeted a deficit of \$6M, with \$5M coming from Unreserved Fund Balance. Coming under budget in Expenditures narrowed it down to where the City is only going to draw \$1.5M from Unreserved Fund Balance rather than \$5M. The Statements as of July 31 show Unreserved Fund Balance being a little over \$30M, but there will be some adjustments, it will actually be \$29.9M.

Mr. Adkins stated the City had its bond agency calls today for the upcoming bond issue; they went well and the raters seemed very pleased with the City's projected results. They were also pleased with the City's use of Fund Balance for FY18 being lower than planned, and to hear that the City's budgeted use of Fund Balance for FY19 is much lower. Staff will hear back from them next week and the bonds are set to sell in September. Mr. Adkins stated the last Moral Obligation renewal for this calendar year is a loan the IDA had with regard to the Lockett Drive property. The City provided a Moral Obligation for that, it was structured as the others with a twenty year payback and a maturity every five years; this is the first five year maturity. The City will be refinancing that to extend it for the remaining fifteen years. Lockett Drive currently has Morrisette Paper, they use it as a storage facility and are paying a lease revenue to the IDA which will cover the debt service. The Moral Obligation should appear in the agenda for the last meeting in September.

CONSIDERATION OF VACATING A RIGHT OF WAY NEAR CHERRY STREET

City Engineer Brian Dunevant noted the City had a request from a property owner to vacate part of the alleyway that is adjacent to his house on Cherry Street. He is requesting the City vacate it; if it passes, it will get split down the middle and divided between the property owners. Council agreed to put this on an upcoming business agenda.

CONSIDERATION OF AMENDING THE FY 2019 BUDGET APPROPRIATION ORDINANCE FOR VDOT HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS IN THE AMOUNT OF \$70,830

Mr. Dunevant explained this is a grant the City submitted about two years ago under the HSIP program and was awarded just over \$70,000. It is for high visibility back plates; it should be enough to do all the signals in the City. Council agreed to put this on an upcoming business agenda.

CONSIDERATION OF AMENDING THE FY 2019 BUDGET APPROPRIATION ORDINANCE FOR VDOT STATE OF GOOD REPAIR/PRIMARY EXTENSION FUNDS IN THE AMOUNT OF \$999,000

Mr. Dunevant explained the City applied for three grants earlier this year and were able to get all three, for Riverside Drive, Central Boulevard and Memorial Drive. It is for segments of those roadways that were designated by VDOT to fall below a certain score. Council agreed to put this on an upcoming business agenda.

DISCUSSION ON OBTAINING OUTSIDE CONSULTANT SERVICES LEADING TO THE SELECTION OF AN FBO FOR DANVILLE REGIONAL AIRPORT

City Manager Ken Larking noted that staff was recommending this, to help the process going forward to select an FBO. The current FBO has a contract that ends June 30, 2019. In order to make sure the City has the most independent process possible, staff felt it would be beneficial to

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hire a consultant who has expertise in the area of designing RFPs for fixed base operators and also has contacts in the world of FBOs that could possibly encourage additional proposals and help the City with evaluation of those proposals. Director of Transportation Marc Adelman noted he looked into this when he was asked to do some research; not being familiar with the process, he contacted the Virginia Department of Aviation and they referred him to the Norfolk Airport Authority who secured a consultant to do this type of work. There are a lot of issues with generating interest in gaining proposals to fulfill FBO services.

Mr. Campbell asked about the cost and Mr. Adelman noted it depends on their level of involvement. He followed up with the consultant that Norfolk had hired and asked them what the fee range may be; it is relative to the task they perform. If they are involved with developing an RFP and outreach to gain interest from companies to participate, that may range around \$15,000. If they are involved with the evaluation process, it would be an additional expense incurred. Mr. Adelman stated they did meet with the Airport Commission, discussed this at length and there was consensus support to pursue this effort. Mr. Barksdale, Airport Commission Chairman, thanked Council for appointing him to the Commission. Mr. Barksdale noted the concern about the FBO is an initiative and the Commission will be able to work with that; this is not unique, across the Country, there are ongoing issues regarding FBOs. It is the nature of the business, with aeronautical services, airport sponsor and tenant relationships, industry and consolidation. An aviation consultant will have administrative, technical, aeronautical and regulatory knowledge; skills, ability to recruit, evaluate, rate and rank FBOs who would submit to the RFP. Mr. Barksdale noted he does not see it as an issue, he is ready to do the best they can and thinks the Commissioners are all on board. Dr. Miller noted he thought this was a good idea, there were very painful struggles last year with this issue, not getting enough FBOs, the he said/she said accusations, and the Commission voting.

PROGRAM UPDATE

Mr. Larking noted it was his understanding that the Danville Lifesaving Crew would like to have a work session sometime in October where they would host Council at their main facility and talk about the programs and processes they have in place and some changes they are undergoing, including their strategic plan. He will work with them to find a date that works.

COMMUNICATIONS

Mr. Whittle noted to Council Member Shanks' point on the Stormwater management, he does not want to let that go. Mayor Jones noted an update is coming forward very soon.

MEETING ADJOURNED AT 8:23 P.M.

MAYOR

CITY CLERK

September 4, 2018

A Regular Work Session of the Danville City Council convened on September 4, 2018 at 8:27 p.m. in the Conference Room located on the Fourth Floor of the Municipal Building. Council Members present were: James B. Buckner, L. G. "Larry" Campbell Jr., Mayor Alonzo L. Jones, Dr. Gary P. Miller, Sherman M. Saunders, Fred O. Shanks, III, Adam J. Tomer, Vice Mayor J. Lee Vogler, Jr., and Madison J.R. Whittle (9).

Staff Members present were: City Manager Ken Larking, Deputy City Manager Earl B. Reynolds, and City Attorney W. Clarke Whitfield Jr.; City Clerk Susan M. DeMasi was absent.

Mayor Jones presided.

MINUTES

Upon **Motion** by Council Member Buckner and **second** by Council Member Tomer, Minutes from Regular Work Session held on July 5, 2018, Special Work Session held on July 17, 2018 and Regular Work Session held on July 17, 2018, were approved as presented. Draft copies were distributed to Council Members prior to the Meeting.

Mayor Jones suggested moving Item F, Data Centers, to Item A.

WORK SESSION ITEMS

DISCUSSION ON DATA CENTER TAX RATES

Vice Mayor Vogler proposed that the City set the rate at twenty five cents per \$100 which would make Danville the lowest in the state. Mayor Jones called for a straw poll and seven members noted their agreement.

Council agreed to put this on an upcoming business agenda.

CONSIDERATION OF AMENDING CHAPTER 24, PARADES AND OTHER ASSEMBLIES OF THE DANVILLE CITY CODE

City Manager Ken Larking explained staff is proposing revisions to this Ordinance; it would be pro-active, recognizing incidents that have occurred close to Danville related to assemblies that became violent. The City examined their Ordinance and found it needed to be updated. Mr. Larking noted he wanted to make sure the City's Police Department had all the tools necessary within the Ordinance, to take action if necessary, to protect the public safety of anyone in the City or visiting the City. Chief Booth noted this Ordinance had not been reviewed since about 1986.

Council Member Saunders questioned when they make decisions on giving a permit, the location would be on City property, and would depend on the number of the participants. If there are people taking the opposite view, will they join that same location, and will they also need a permit to participate. Mr. Larking noted it was his understanding, the issuance of a permit for a particular purpose also allows for anybody with an opposing viewpoint to be at the same location. There can be provisions made to protect public safety by allowing for separation; Chief Booth noted his agreement. Mr. Saunders stated the City had a situation where a large amount of people came unexpectedly, does this cover emergencies and how does the City handle them, and unexpected crowds. Mr. Larking noted in that particular circumstance, City staff was given notice that it may occur and made itself ready. The timing worked out that the event for protesting had ended by the time the others showed up, so there was no altercation; the City had backup from the State

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Police. What the City didn't have in the Ordinance then and does now, is the list of things that are not allowed. Some of those counter protestors would have been in violation of the Ordinance now because they were bearing sticks, wearing masks and other things. Police officers will be able to ask them to remove their masks, and put the sticks aside; if they voluntarily comply it will be fine, if they do not comply, then police take the next step. Mr. Shanks noted if the incident is the one that happened about two Decembers ago, during the downtown Christmas shopping season, a group showed up wearing masks, parading without a permit, and does not know how they weren't arrested. Mr. Larking noted he believes it was a judgment call, the person who made that decision isn't here.

In response to Mr. Saunders, Chief Booth explained the resources the City has for an event like that would be Pittsylvania County and State Police, and feels confident that the City's off duty personnel would be called back in. There is a level of training on equipment now that the City did not have six months ago, in response to some of the recent incidents. The Ordinance also gives the City a little more time when it looks at approving the actual permit; the City Manager now has 72 hours versus 12 hours. Chief Booth noted he believes 72 hours gives the City time to prepare and for the City to respond appropriately. The main thing this does versus the original Ordinance, it allows the City to set a secure area for the freedom and expression of speech, so both protestors or people expressing their First Amendment rights, plus those that want to express an opposite point of view, will be in a secure area.

Council Member Miller questioned if this would allow the City to keep opposing groups away from each other and Chief Booth noted the Ordinance allows them to set up a secure area and within that secure area they will be allowed to separate the groups. Chief Booth explained another change in the Ordinance is the City did not have any items that were not permitted, before. Now there are a number of items, and all the items on the list were based off the prior Chief and his team's research into what was going on in protests at the time. These are all things that have been used by people that may want to do more than express their Freedom of Speech, they want to hurt people, either counter protestors, each other or public safety and first responders. That is why there is a long list of items included.

Mr. Saunders noted Virginia is a right to carry state, if there is a protest and people exercising their rights, how is that addressed. Chief Booth stated that cannot be prohibited, even in the secure area designated by public safety, people are still allowed to exercise their Second Amendment right. The only thing they can do, they added some verbiage to the permit that talks about how the City would prefer they carry those weapons in a non-threatening manner. Mr. Saunders questioned what happens if a crowd forms, they don't have a permit, they didn't ask in advance, what does the City do. Mr. Larking noted on a spontaneous demonstration without any prior notice, that would likely be a tactical decision based on information received, weighing what is in the best interest of public safety and what would likely happen. That would be a consultation between himself, the Chief and others necessary to make a determination on what should be done. Council agreed to put this on an upcoming business agenda.

CONSIDERATION OF ENTERING INTO A PURCHASE POWER AGREEMENT WITH TURNINGPOINT ENERGY FOR THE WHITMELL SOLAR PROJECT

Director of Utilities Jason Grey explained this item, and the next for the Ringgold solar project, are related to the City working towards their energy replacement needs; the City has an expiring contract on December 31, 2020. Staff looked at different projects they could do locally including natural gas and solar, and the solar responses have been very overwhelming. The City has been very successful with the current solar farm, they worked with Turningpoint on the Kentucky project

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and they brought them the Whitmell project. They would be looking to find an investor to build it, it would be a \$15M to \$20M project in the Dryfork, Whitmell area on Irish Road; June 2020 is the expected commercial operations date.

CONSIDERATION OF ENTERING INTO A PURCHASE POWER AGREEMENT WITH STRATA SOLAR FOR THE RINGGOLD SOLAR PROJECT

Mr. Grey noted Strata Solar brought the Ringgold Solar project to the City; it is a 12MW project within the same timeframe as the Whitmell Project, in June 2020. It is about a \$20M to \$25M project and would help the City replace energy needs the City has expiring in 2020. Mr. Shanks explained these projects went before the Utility Commission last month; it is exciting as the expiring block of energy is probably the highest that the City has. Mr. Grey explained the City is replacing the \$63 per MW hour block with something in the single digits. Mr. Shanks noted it is not going to fix everything but it is a huge step in the right direction, believes it is the tax credits that make it a cheaper energy and hopes it will stay around for awhile. Vice Mayor Vogler questioned if this is another project where the City does not incur any of the upfront costs, they benefit from the energy and Mr. Grey noted that was correct. The City does not have any capital investment but does have some costs with interconnection, but it is small compared to the capital investment to build a solar farm. Council members agreed to put both solar projects on an upcoming business agenda.

CONSIDERATION OF TRANSFERRING CITY OWNED SURPLUS PROPERTIES TO THE DRHA

Assistant City Attorney Ryan Dodson distributed maps of the properties listed in the Council letter. Mr. Buckner questioned where the properties are located and Mr. Dodson explained both in the north and south areas of the City. There were no further questions from Council and Council agreed to put this matter on an upcoming business agenda.

CONSIDERATION OF ENTERING INTO A SHARED USAGE AGREEMENT WITH PATHS, INC., FOR THE STONEWALL RECREATION CENTER

Council Members had no questions regarding the Shared Usage Agreement with PATHS and agreed to put this item on an upcoming business agenda.

PROGRAM UPDATE

Mr. Larking noted he wanted to make Council aware that the City did receive their credit ratings from the three credit rating agencies and has been confirmed with the same credit rating as in the past. They had a lot of great things to say about the City's fiscal health and City Council financial policies. In response to Mr. Saunders, Mr. Larking noted there were a lot of questions regarding the City's decision to do multi-year financial planning, they were very impressed, and that helps the City's credit rating.

ECONOMIC DEVELOPMENT UPDATE

Assistant Director of Economic Development Corrie Bobe noted Delishi has a soft opening in a few weeks, they will be scheduling a formal ribbon cutting soon. Ms. Bobe stated on September 21st at 2:30 p.m., River City Co-Working will be opening at 641 Main Street.

September 4, 2018

COMMUNICATIONS

Dr. Miller noted he has citizens questioning him about synchronized traffic lights on Piney Forest Road and requested a report for them.

Mayor Jones asked for an update for Mr. Shanks on the Stormwater situation and Mr. Larking noted it is a complicated issue and staff is doing research to make sure they have all the information to provide to Council. Public Works is gathering that information and best practice information from other communities, getting history on how it has been handled over time and will be ready as soon as possible.

CLOSED MEETING

At 9:07 p.m., Vice Mayor Vogler **moved** that this meeting of the City Council of Danville, Virginia be recessed and that Council immediately reconvene in a Closed Meeting for the following purposes: discussion or consideration of the acquisition and/or disposition of real property for a public purpose where discussion in an open meeting would adversely impact the bargaining position of the City as permitted by Subsection (A)(3) of Section 2.2-3711 of the Code of Virginia, 1950, as amended, more specifically to consider both the acquisition of a specific parcel or parcels of real property as well as the disposition of a specific parcel or parcels of real property; and to consider an Economic Development discussion and update concerning prospective business or industry where no previous announcement has been made and/or the expansion of an existing business or industry where no previous announcement has been made as permitted by Subsection (A)(5) of Section 2.2-3711 of the Code of Virginia, 1950 as amended, and more specifically to consider the location of a prospective new business or industry to the area and expansion of an existing business or industry.

The Motion was **seconded** by Council Member Buckner and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

Upon unanimous vote at 9:43 p.m., Council reconvened in open session and Vice Mayor Vogler **moved** adoption of the following Resolution:

CERTIFICATE OF CLOSED MEETING

WHEREAS, the Council convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia, 1950, as amended, requires a Certification by the Council that such Closed Meeting was conducted in conformity with Virginia Law;

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each Member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements of Virginia Law under Section 2.2-3711 were heard, discussed or considered, and (ii) only such public business matters as were identified in the Motion by which the Closed Meeting was convened were heard, discussed or considered by the Committee.

September 4, 2018

The Motion was **seconded** by Council Member Saunders and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Miller, Saunders,
Shanks, Tomer, Vogler and Whittle (9)
NAY: None

MEETING ADJOURNED AT 9:44 P.M.

MAYOR

CITY CLERK

DRAFT

Council Letter

City of Danville, Virginia



CL-1990

Work Session Item #: A.

Work Session Meeting

Meeting Date: 10/04/2018

Subject: Comcast Cable Television Franchise Agreement

From: Jason Grey, Utilities Director

COUNCIL ACTION

Work Session Meeting: 10/04/2018

SUMMARY

Comcast and City staff have negotiated the proposed franchise agreement under the Code of Virginia and the Cable Act for a nonexclusive franchise which would authorize Comcast to construct and operate a cable system in the City's public right-of-ways within the City limits. The proposed term is for five (5) years unless the agreement is renewed or lawfully terminated under the Code of Virginia and/or the Cable Act. The franchise agreement shall be extended for one (1) additional, five (5) year term unless either party notifies the other within three (3) years of the expiration of the agreement.

Comcast shall make cable service available to every residential dwelling unit within the City limits where the minimum density is at least forty (40) occupied residential dwelling units per mile with aerial cable or sixty (60) occupied residential dwelling units per mile with underground cable, and is within one (1) mile as measured in strand footage from the nearest point on the cable system trunk or feeder line from which a usable cable signal can be obtained. Subject to the density requirement, Comcast shall offer cable service to all new homes or previously unserved homes located within one hundred and twenty-five (125) feet of the franchisee's distribution cable at the standard installation rate. Should, through new construction, an area within the Franchise Area meet the density requirements, Comcast shall provide cable service to such area within one (1) year after it confirms that the density requirements have been met following notice from the City of Danville that one (1) or more residents has requested Service.

BACKGROUND

In August 2004, the City granted a ten-year cable franchise to Adelphia Cable Communications to provide nonexclusive cable services with the City of Danville. Approximately in 2007, Comcast purchased the Adelphia Danville system and began operations of the cable system. The existing cable franchise agreement expired in August 2014 and was extended to January 2015 in hopes to have a mutually negotiated franchise agreement. Currently, Comcast has been operating under the guidelines of the expired agreement from August 2014.

RECOMMENDATION

Staff recommends that City Council approve the proposed franchise agreement with Comcast of Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC, for a term of five years.

Attachments

Ordinance
Agreement

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018-____.____

AN ORDINANCE APPROVING AND AUTHORIZING A NEGOTIATED CABLE FRANCHISE AGREEMENT WITH COMCAST OF CONNECTICUT-GEORGIA-MASSACHUSETTS-NEW HAMPSHIRE-NEW YORK-NORTH CAROLINA-VIRGINIA-VERMONT, LLC.

WHEREAS, the City of Danville has authority, pursuant to the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 et seq., and the Code of Virginia, 1950, as amended, § 16.2-2108.19 et seq. to grant cable franchises, and has enacted Section 9.5-5, entitled “Grant of authority”, of Chapter 9.5, entitled “Cable Television”, of the Code of the City of Danville, 1986, as amended, effectuating this grant of power; and

WHEREAS, Comcast of Connecticut-Georgia-Massachusetts-New Hampshire-New York-North Carolina-Virginia-Vermont, LLC (“Comcast”), and its predecessor-in-interest, Three Rivers Cable Associates, L.P., d/b/a Adelphia Cable Communications, have provided cable services in the City for many years, and have requested a re-negotiation of their existing Cable Franchise with the City; and

WHEREAS, the City Manager and the City Attorney have negotiated an agreement with Comcast to continue cable service in the City under similar terms and conditions to those that were previously in force and effect.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia, that:

1. Pursuant to Section 9.5-5, entitled “Grant of authority”, of Chapter 9.5, entitled “Cable Television”, of the Code of the City of Danville, Virginia, 1986, as amended, the City grants a franchise to Comcast of Connecticut-Georgia-Massachusetts-New Hampshire-New York-North Carolina-Virginia-Virginia, LLC, to occupy the public right-of-way for the purpose of operating a cable system under the terms and conditions more particularly set forth in the cable franchise agreement, attached hereto and incorporated herein as **Exhibit A** (the “Agreement” or “Franchise Agreement”); and
2. The provisions of Chapter 9.5, entitled “Cable Television” of the Code of the City of Danville, Virginia, 1986, as amended, are to be read together with the

Franchise Agreement so as to give full force and effect to each. However, in the event of a manifest inconsistency between the provisions, the specific provisions of the Franchise Agreement shall supersede the general provisions of the Code.

AND BE IT FURTHER ORDAINED, by the Council of the City of Danville, Virginia, that the City Manager, Kenneth Larking, be, and is hereby, authorized and directed to execute the Franchise Agreement and to any other documents necessary to be executed or signed to complete this transaction.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

CABLE FRANCHISE AGREEMENT
BETWEEN
CITY OF DANVILLE
AND
COMCAST OF CONNECTICUT/GEORGIA/MASSACHUSETTS/NEW
HAMPSHIRE/NEW YORK/NORTH CAROLINA/VIRGINIA/VERMONT, LLC

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CABLE TELEVISION FRANCHISE AGREEMENT

This Franchise Agreement (hereinafter, the “Agreement” or “Franchise Agreement”) is made between the City of Danville, a political subdivision of the Commonwealth of Virginia (hereinafter, “City” or “Franchising Authority”) and Comcast of Connecticut/ Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC (hereinafter, “Franchisee”).

The City, having determined that the financial, legal, and technical ability of the Franchisee is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Franchisee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

SECTION 1 - Definition of Terms

For the purpose of this Franchise Agreement, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Code of Virginia, Article 1.2, § 15.2-2108.19, and the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521–631 (the “Cable Act”), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future tense, words used to refer to the masculine include the feminine, words in the plural number include the singular number and likewise words in the singular number include the plural number. The word “shall” is mandatory and “may” is permissive. Words not defined in the Code of Virginia, Article 1.2, §15.2-2108.19, the Cable Act, or herein shall be given their common and ordinary meaning.

1.1 “Act” shall mean the Communications Act of 1934.

1.2 “Affiliate” shall mean any Person who owns or controls, is owned or controlled by, or is under common ownership or control with the Grantee, excluding any entity related to the operations of NBC Universal.

1.3 “Basic service tier” shall mean the service tier that includes (i) the retransmission of local television broadcast channels and (ii) public, educational, and governmental channels required to be carried in the basic tier.

1.4 “Cable Operator” shall mean any Person or group of Persons that (i) provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or (ii) otherwise controls or is responsible for, through any arrangement, the management and operation of a Cable System.

1.5 “Cable Service” shall mean the one-way transmission to Subscribers of (i) video programming or (ii) other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Cable service does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d).

1.6 “Cable System” or “System” shall mean any facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service that includes video programming and that is provided to multiple Subscribers within a community, except that such definition shall not include (i) a system that serves fewer than 20 Subscribers; (ii) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (iii) a facility that serves only Subscribers without using any public right-of-way; (iv) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 USC § 201 et seq., except that such facility shall be considered a Cable System to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (v) any facilities of any electric utility used solely for operating its electric systems; (vi) or any portion of a System that serves fewer than 50 Subscribers in any locality, where such portion is part of a larger System franchised in an adjacent locality; or (vii) an open video system that complies with § 653 of Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 573.

1.7 “City” shall mean the City of Danville, Virginia.

1.8 “Customer” or “Subscriber” shall mean a Person or user of the Cable System who lawfully receives Cable Service therefrom with the Franchisee’s express permission.

1.9 “Effective Date” shall mean _____ 2018.

1.10 “FCC” shall mean the Federal Communications Commission or successor governmental entity thereto.

1.11 “Franchise” shall mean the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction and operation of the Cable System.

1.12 “Franchise Agreement” or “Agreement” shall mean this Ordinance Cable Franchise Agreement and any amendments or modifications hereto.

1.13 “Franchise Area” shall mean the present legal boundaries of the City of Danville, Virginia as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means during the term of the Franchise, as per the requirements set forth in this Agreement.

1.14 “Franchising Authority” shall mean the City of Danville, Virginia, or the lawful successor, transferee, designee, or assignee thereof.

1.15 “Franchisee” shall mean Comcast of Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC.

1.16 “Gross Revenue” shall mean revenue derived by the Franchisee from the operation of the Cable System in the Franchise Area to provide Cable Service, calculated in accordance with generally accepted accounting principles (“GAAP”). Gross Revenue includes monthly basic cable, premium and pay-per-view video fees, installation fees and subscriber equipment rental fees, and commercial leased access fees. Gross Revenue shall not include program launch support payments, revenue from advertising and home shopping, refundable deposits, late fees, investment income, nor any taxes, franchise fees, or other fees or assessments imposed or assessed by any governmental authority. Gross Annual Revenues shall not include actual bad debt that is written off, consistent with generally accepted accounting principles, provided however, that all or any part of any such actual bad debt that is written off, but subsequently collected, shall be included in the Gross Annual Revenues in the period so collected.

1.17 “Person” shall mean any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Franchising Authority.

1.18 “Public Way” shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle, park, bridge, waterway, dock, bulkhead, wharf, pier, other public ground or water subject to the jurisdiction and control of the Franchising Authority, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or easements dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Franchise Area, which shall entitle the Franchisee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Franchise Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchisee to the use thereof for the purposes of installing, operating, and maintaining the Franchisee’s Cable System over poles,

wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

1.19 “Interactive on-demand services” shall mean a service providing video programming to Subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider.

1.20 “Transfer” shall mean any transaction in which (i) an ownership or other interest in the Franchisee is transferred, directly or indirectly, from one Person or group of Persons to another Person or group of Persons, so that majority control of the Franchisee is transferred; or (ii) the rights and obligations held by the Franchisee under the Franchise granted under this Franchise Agreement are transferred or assigned to another Person or group of Persons. However, notwithstanding clauses (i) and (ii) of the preceding sentence, a Transfer of the Franchise shall not include (a) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Franchisee in the Franchise or in the Cable System in order to secure indebtedness, (b) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation, or (c) the sale, conveyance, transfer, exchange or release of fifty percent (50%) or less of its equitable ownership.

1.21 “Video programming” shall mean programming provided by, or generally considered comparable to, programming provided by a television broadcast station.

SECTION 2 - Grant of Authority

2.1 The Franchising Authority hereby grants to the Franchisee under the Code of Virginia and the Cable Act a nonexclusive Franchise authorizing the Franchisee to construct and operate a Cable System in the Public Ways within the Franchise Area, and for that purpose to use, erect, install, construct, repair, alter, add to, inspect, replace, reconstruct, maintain, or retain in any Public Way such poles, wires, cables, conductors, ducts, underground conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and, including but not limited to, above ground enclosures, markers, concrete pads, or other related property or equipment as may be necessary, useful, or appurtenant fixtures to the Cable System and to provide such services over the Cable System as may be lawfully allowed.

2.2 Term of Franchise. The term of the Franchise granted hereunder shall be five (5) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement, the Code of Virginia, and/or the Cable Act.

This Franchise shall be automatically extended for one (1) additional term of five (5) years unless either party notifies the other in writing of its desire to enter renewal negotiations under the Cable Act at least three (3) years before the expiration date of the Franchise Agreement.

2.3 Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Article 1.2 of the Code of Virginia and Section 626 of the Cable Act, as amended.

2.4 Reservation of Authority. Nothing in this Franchise Agreement shall be construed as a waiver of any codes or ordinances of general applicability promulgated by the Franchising Authority.

SECTION 3 - Construction and Maintenance of the Cable System

3.1 Permits and General Obligations. The Franchisee shall be responsible for obtaining all generally applicable permits, licenses, or other forms of approval or authorization prior to the commencement of any activity that materially disturbs the surface of any street, curb, sidewalk or other public improvement in the Public Way, or impedes vehicular traffic. The issuance of such permits shall not be unreasonably withheld, conditioned or delayed. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All work shall be done by the Franchisee in accordance with FCC regulations. Notwithstanding the requirements herein, Franchisee shall not be required to obtain a permit for individual drop connections to Subscribers, servicing or installing pedestals or other similar facilities, or other instances of routine maintenance or repair to its Cable System. All transmission and distribution structures, poles, other lines, and equipment installed by the Franchisee for use in the Cable System in accordance with the terms and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the Public Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Way.

3.2 Conditions of Street Occupancy.

3.2.1 New Grades or Lines. If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Franchisee shall, upon reasonable advance written notice from the Franchising Authority (which shall not be less than thirty (30) business days) and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any other user of the Public Way for the purpose of defraying the cost of any of the foregoing,

the Franchising Authority shall notify the Franchisee of the availability of such funding and make such funds available to the Franchisee within a reasonable timeframe. In the event that funds are not available, Franchisee reserves the right to pass its costs through to its Subscribers in accordance with applicable law.

3.2.2 Relocation at Request of Third Party. The Franchisee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided (i) the Franchisee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Franchisee is given not less than thirty (30) business days advance written notice to arrange for such temporary relocation.

3.2.3 Restoration of Public Ways. If in connection with the construction, operation, maintenance, or repair of the Cable System, the Franchisee disturbs, alters, or damages any Public Way, the Franchisee agrees that it shall at its own cost and expense replace and restore any such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to the disturbance as is practical.

3.2.4 Safety Requirements. The Franchisee shall undertake all necessary and appropriate commercial efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the Cable System shall be performed in accordance with applicable FCC or other federal and state regulations. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.

3.2.5 Trimming of Trees and Shrubbery. The Franchisee shall have the authority to trim trees or other natural vegetative growth encroaching on or overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Franchisee's wires, cables, or other equipment. All such trimming shall be done at the Franchisee's sole cost and expense. The Franchisee shall be responsible for any collateral, direct real property damage caused by such trimming.

3.2.6 Aerial and Underground Construction. At the time of Cable System construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Franchisee shall place its Cable System transmission and distribution facilities underground; provided that such underground locations are actually capable of accommodating the Franchisee's cable and other equipment without technical degradation of the Cable System's signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of

the respective public or municipal utilities are both aerial and underground, the Franchisee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing in this Agreement shall be construed to require the Franchisee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

3.2.7. Undergrounding and Beautification Projects. In the event all similarly-situated users of the Public Way, including, but not limited to power lines, telephone lines, and telecommunication lines, relocate aerial facilities underground as part of an undergrounding or neighborhood beautification project, Franchisee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities. Franchisee's relocation costs shall be included in any computation of necessary project funding by the Franchising Authority or private parties. Franchisee shall be given reasonable notice and access to the public utilities' facilities at the time that such are placed underground and shall be entitled to reimbursement of its relocation costs from public or private funds raised for the project and made available to other users of the Public Way. In the event that public and/or private funds are not available or do not cover the entire direct and actual cost of the relocation, Franchisee reserves the right to pass its costs, or in the case of partial reimbursement from public and/or private funds its incremental cost, through to its Subscribers in accordance with applicable law.

SECTION 4 - Service Obligations

4.1 General Service Obligation.

4.1.1 The Franchisee shall make Cable Service available to every residential dwelling unit within the Franchise Area where the minimum density is at least forty (40) occupied residential dwelling units per mile with aerial cable or sixty (60) occupied residential dwelling units per mile with underground cable and is within one (1) mile as measured in strand footage from the nearest point on the Cable System trunk or feeder line from which a usable cable signal can be obtained. For purposes of this section, a home shall only be counted as a "dwelling unit" if such home is within two hundred seventy-five (275) feet of the public right of way. Subject to the density requirement, Franchisee shall offer Cable Service to all new homes or previously unserved homes located within one hundred and twenty-five (125) feet of the Franchisee's distribution cable at the standard installation rate. Should, through new construction, an area within the Franchise Area meet the density requirements, Franchisee shall provide Cable Service to such area within one (1) year after it confirms that the density requirements have been met following notice from the Franchising Authority that one (1) or more residents has requested Service.

4.1.2 The Franchisee may elect to extend Cable Service to areas that do not otherwise qualify to receive Cable Service under this section if any resident or group of residents agree in writing to pay to Franchisee the cost of construction, including materials, labor, and the total cost of any easement(s) necessary to accomplish the proposed line extension. One half of the cost of construction shall be paid to the Franchisee prior to engineering and the balance shall be paid prior to commencement of construction.

4.2 New Developments. The Franchising Authority shall provide the Franchisee with written notice of the issuance of building or development permits for planned developments within the Franchise Area requiring undergrounding of cable facilities. The Franchising Authority agrees to require the developer, as a condition of issuing the permit, to give the Franchisee access to open trenches for deployment of cable facilities and at least fifteen (15) business days written notice of the date of availability of open trenches. Developer shall be responsible for the digging and backfilling of all trenches.

4.3 Programming. The Franchisee shall offer to all Customers a diversity of video programming services.

4.4 No Unfair Discrimination. Neither the Franchisee nor any of its employees, agents, representatives, contractors, subcontractors, or consultants, nor any other Person, shall discriminate or permit discrimination between or among any Persons in the availability of Cable Services provided in connection with the Cable System in the Franchise Area; provided, however, Franchisee reserves the right to deny service for good cause, including but not limited to non-payment or theft of service, vandalism of equipment, or documented or founded harassment or abuse of Franchisee's employees or agents. It shall be the right of all Persons to receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Franchisee are satisfied. Nothing contained herein shall prohibit the Franchisee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its customary business practice.

4.5 Prohibition Against Reselling Service. No Person shall sell, offer for sale, or resell, without the express prior written consent of the Franchisee, any Cable Service, program or signal transmitted over the Cable System by the Franchisee.

SECTION 5 - Educational and Governmental Access Channel

5.1 EG Access. Franchisee shall continue to make available one (1) channel for educational and governmental access video programming provided by the Franchising Authority or its designee. Use of a channel position for

educational and governmental (“EG”) access shall be provided on the most basic tier of service offered by Franchisee in accordance with the Cable Act, Section 611, and Article 1.2 of Chapter 21 of Title 15.2 of the Code of Virginia, 1950, as amended, and as further set forth below. “Channel position” means a number designation on the Franchisee’s channel lineup regardless of the transmission format (analog or digital). Franchisee does not relinquish its ownership of or ultimate right of control over a channel by designating it for EG use. An EG access user – whether an individual, educational or governmental user – acquires no property or other interest by virtue of the use of a channel so designated, and may not rely on the continued use of a particular channel number, no matter how long the same channel may have been designated for such use. Franchisee shall not exercise editorial control over any educational or governmental use of a channel position, except Franchisee may refuse to transmit any access program or portion of an access program that contains obscenity, indecency, or nudity. The Franchising Authority shall be responsible for developing, implementing, interpreting and enforcing rules for EG Access Channel use. Comcast and the City agree that Comcast shall have no further financial or operational responsibility to maintain a PEG Access studio or to produce PEG Access programming.

5.1.1 Additional EG Access Channels. The Franchising Authority may request one (1) additional EG Access Channel, not to exceed a total of two (2) channels, so long as a threshold use requirement is met for the existing EG Access Channel. In order to request an additional EG channel, the existing EG Access Channel must be programmed at least eight (8) hours per day with non-repetitive, non-character generated, non-alphanumeric, locally-produced programming, Monday through Saturday, for a minimum of six (6) consecutive weeks. The Franchising Authority must provide Franchisee with written, detailed documentation evidencing the usage meets the threshold requirement. Franchisee shall have one hundred eighty (180) days to provide the requested additional channel. Once the threshold is met and the additional channel is made available, the initial EG channel must maintain the threshold requirement. If the initial EG channel fails to meet the threshold for four (4) consecutive months, the additional EG channel may be reclaimed by Franchisee upon sixty (60) calendar days written notice. Under no circumstances shall the Franchising Authority lose the right to its initial EG channel position.

5.2 Educational and Government Access. An “Educational and Government Access Channel” is a channel made available for noncommercial use by educational institutions such as public or private schools (but not “home schools”), community colleges, and universities, and for noncommercial use by the Franchising Authority for the purpose of showing the public local government at work.

5.3 Return Line. In order that EG Access Programming can be cablecast over Franchisee’s downstream EG Access Channel, all EG Access Programming

shall continue to be modulated, or its equivalent, then transmitted from the origination location at 427 Patton Street, Danville, VA 24541 to the Franchisee-owned headend or hub-site on a Franchisee-owned upstream channel made available to the Franchising Authority for its use. Except as otherwise provided or agreed, any costs related to the construction or upgrading of return lines or origination locations shall be the responsibility of the Franchising Authority. Said payment shall be made in advance to the Franchisee subject to the Franchisee providing the Franchising Authority with a detailed estimate of said construction cost.

5.4 Franchisee Use of Fallow Time. Because blank or underutilized PEG channels are not in the public interest, in the event the Franchising Authority or other PEG access user elects not to fully program its channel(s), a Franchisee may program unused time on those channels subject to reclamation by the Franchising Authority upon no less than sixty (60) days' notice.

5.5 Indemnification. To the extent permitted by law, if at all, and without waiving the sovereign immunity of the City in any manner, the Franchising Authority shall indemnify Franchisee for any liability, loss, or damage it may suffer due to violation of the intellectual property rights of third parties or arising out of the content of programming shown on any EG channel and from claims arising out of the Franchising Authority's rules for or administration of access.

SECTION 6 - Customer Service Standards; Customer Bills; and Privacy Protection

6.1 Customer Service Standards. The Franchising Authority hereby adopts the customer service standards set forth in Part 76, § 76.309 of the FCC's rules and regulations, as amended. The Franchisee shall comply in all respects with the customer service requirements established by the FCC.

6.2 Customer Bills. Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that (i) is not misleading and (ii) does not omit material information. Notwithstanding anything to the contrary in Section 6.1, the Franchisee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. § 542(c)).

6.3 Privacy Protection. The Franchisee shall comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.

6.4 Credits for Outages. Upon Subscriber request, the Franchisee shall, under Normal Operating Conditions, provide a pro-rata credit related Cable

Service charges when a Subscriber has experienced an outage affecting all service for a continuous period of forty-eight (48) hours or longer. In order for a Subscriber to be eligible for a credit, they must promptly notify Franchisee of the issue and provide reasonable access to the Franchisee to investigate and repair the issue. A credit will not be provided for such time, if any, that the Subscriber is not reasonably available.

SECTION 7 – Fees and Charges to Customers

7.1 All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Franchisee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC rate regulations. Before any new or modified rate, fee, or charge is imposed, the Franchisee shall follow the applicable FCC notice requirements and rules and notify affected Customers, which notice may be by any means permitted under applicable law.

SECTION 8 - Oversight and Regulation by Franchising Authority

8.1 Communications Tax. Franchisee shall comply with the provisions of Section 58.1-645 *et seq.* of the Code of Virginia, pertaining to the Virginia Communications Sales and Use Tax, as amended.

8.2 Payment of Franchise Fee: In the event that the Communications Tax is repealed and no successor state or local tax is enacted that would constitute a Franchise Fee for purposes of 47 U.S.C. § 542, as amended, Franchisee shall pay to the Franchising Authority a Franchise Fee of five percent (5%) of annual Gross Revenue, beginning on the effective date of the repeal of such tax (the "Repeal Date"); provided, however, that Franchisee shall not be compelled to pay any higher percentage of franchise fees than any other cable operator providing service in the Franchise Area. Beginning on the Repeal Date, the terms of Section 8.2 and 8.3 of this Agreement shall take effect. In accordance with Title VI of the Communications Act, the twelve (12) month period applicable under the Franchise for the computation of the Franchise Fee shall be a calendar year. The payment of franchise fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each first, second and third calendar quarter (i.e., May 15, August 15, November 15) and sixty (60) days after the close of the calendar year (last day of February). Each franchise fee payment shall be accompanied by a report prepared by a representative of the Franchisee showing the basis for the computation of the Franchise Fees paid during that period.

8.3. Franchise Fees Subject to Audit.

8.3.1 Upon notice pursuant to Section 14.2 herein, during Normal Business Hours at Franchisee's principal business office, the Franchising Authority shall have the right to inspect the Franchisee's financial records used to calculate the Franchising Authority's franchise fees; provided, however, that any such inspection shall take place within two (2) years from the date the Franchising Authority receives such payment, after which period any such payment shall be considered final.

8.3.2. Upon the completion of any such audit by the Franchising Authority, the Franchising Authority shall provide to the Franchisee a final report setting forth the Franchising Authority's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Franchisee shall have thirty (30) days from the receipt of the report to provide the Franchising Authority with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a "Final Settlement Amount." For purposes of this Section, the term "Final Settlement Amount(s)" shall mean the agreed upon underpayment, if any, to the Franchising Authority by the Franchisee as a result of any such audit. If the parties cannot agree on a "Final Settlement Amount," the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law.

8.3.3. Any "Final Settlement Amount(s)" due to the Franchising Authority as a result of such audit shall be paid to the Franchising Authority by the Franchisee within thirty (30) days from the date the parties agree upon the "Final Settlement Amount." Once the parties agree upon a Final Settlement Amount and such amount is paid by the Franchisee, the Franchising Authority shall have no further rights to audit or challenge the payment for that period. The Franchising Authority shall bear the expense of its audit of the Franchisee's books and records.

8.4 Oversight of Franchise. In accordance with applicable law, the Franchising Authority shall have, at its sole cost and expense, the right to oversee, regulate and, on reasonable prior written notice and in the presence of Franchisee's employee, periodically inspect the construction, operation and maintenance of the Cable System in the Franchise Area as necessary to monitor Franchisee's compliance with the provisions of this Franchise Agreement.

8.5 Technical Standards. The Franchisee shall comply with all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. § 76.601 et seq. To the extent those standards are altered, modified, or amended during the term of this Franchise, the Franchisee shall comply with

such applicable altered, modified or amended standards within a commercially reasonable period after such standards become effective. The Franchising Authority shall have, upon written request, the right to obtain a copy of tests and records required to be performed pursuant to the FCC's rules.

8.6 Maintenance of Books, Records, and Files.

8.6.1 Books and Records. Throughout the term of this Franchise Agreement, the Franchisee agrees that the Franchising Authority, upon reasonable prior written notice to the Franchisee, may review such of the Franchisee's books and records in the Franchise Area as are reasonably necessary to monitor Franchisee's compliance with the provisions of this Franchise Agreement at the Franchisee's business office, during Normal Business Hours, and without unreasonably interfering with Franchisee's business operations. All such documents that may be the subject of an inspection by the Franchising Authority shall be retained by the Franchisee for a minimum period of three (3) years.

8.6.2 File for Public Inspection. Throughout the term of this Franchise Agreement, the Franchisee shall maintain at its business office, in a file available for public inspection during normal business hours, those documents required pursuant to the FCC's rules and regulations.

8.6.3 Proprietary Information. Notwithstanding anything to the contrary set forth in this Section, the Franchisee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Franchisee as confidential and only to disclose it to those employees, representatives, and agents of the Franchising Authority that have a need to know in order to enforce this Franchise Agreement and who agree, through the execution of a non-disclosure agreement, to maintain the confidentiality of all such information. The Franchisee shall not be required to provide Customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Franchisee to be competitively sensitive. Franchisee may make proprietary or confidential information available for inspection, but not copying or removal of information by the Franchising Authority's representative. In the event that the Franchising Authority receives a request under a state "sunshine," public records or similar law for the disclosure of information in its possession which the Franchisee has designated as confidential, trade secret or proprietary, the Franchising Authority shall notify Franchisee of such request and cooperate with Franchisee in opposing such request.

8.6.3.1 The Franchisee and Franchising Authority shall abide by all applicable provisions of the Virginia Freedom of Information Act, §2.2-3700 et seq.

8.6.4 Service Area Maps. Upon thirty (30) days' written request, and no more often than once every twelve (12) months, Franchisee shall provide to the Franchising Authority for its exclusive use a complete set of service area strand maps on which shall be shown those areas in which its facilities exist.

8.6.5 Information Use. Information made available or provided to the Franchising Authority under this Agreement shall be used exclusively to monitor the Franchisee's compliance with the provisions of, or to enforce, this Franchise Agreement. The City shall not use, or permit any other entity or person to use, information provided under this Agreement to directly or indirectly compete with any product or services provided by the Franchisee.

8.7 Notification. In accordance with applicable law, Franchisee shall notify Subscribers and the City of any changes in rates, programming services, or channel positions a minimum of thirty (30) days in advance of such changes provided that such change is within the control of Franchisee. Franchisee shall not be required to provide prior notice to Subscribers of any rate change that is the result of a regulatory fee, Franchise Fee or any other fee, tax, assessment or charge of any kind imposed by any federal agency, the State of Virginia, or the City on the transaction between the Franchisee and the Subscriber.

8.8 Performance Review Session. Upon a showing of a pattern of non-compliance with the terms of this Agreement, not more often than once every three (3) years, and upon thirty (30) days written notice to the Franchisee, the Franchising Authority may require the Franchisee to attend and participate in a performance review session. Performance review sessions shall be open to the public. Franchisee shall cooperate in good faith to participate in any such performance review session, however Franchisee shall not be required to disclose any information or documents reasonably determined by Franchisee to be proprietary or confidential.

SECTION 9 - Transfer or Change of Control of Cable System or Franchise

9.1 No Transfer of this Franchise to an unaffiliated entity shall occur without the prior written consent of the Franchising Authority. Upon written notification by the Franchisee of intent to transfer the Franchise to an unaffiliated entity, the Franchising Authority shall act to approve, approve with conditions, or disapprove the transfer within one hundred twenty (120) days. If the Franchising Authority fails to reach a final decision within one hundred twenty (120) days or such extension thereof as the Franchisee may agree to, the transfer shall be

deemed approved. No Transfer shall be made to a Person, group of Persons or Affiliate that is not legally, technically, and financially qualified to operate the Cable System and satisfy the obligations hereunder.

SECTION 10 - Insurance and Indemnity

10.1 Insurance. Throughout the term of this Franchise Agreement, the Franchisee shall, at its own cost and expense, maintain Commercial General Liability Insurance and provide the Franchising Authority certificates of insurance designating the Franchising Authority and its officers, boards, commissions, councils, elected officials and employees as additional insureds and demonstrating that the Franchisee has obtained the insurance required in this Section. Such policy or policies shall be in the minimum amount of One Million Dollars (\$1,000,000.00) per occurrence for bodily injury or property damage. The Franchisee shall provide workers' compensation coverage in accordance with applicable law.

10.2 Indemnification. The Franchisee shall indemnify, defend and hold harmless the Franchising Authority, its officers and employees acting in their official capacities from and against any liability or claims resulting from property damage or bodily injury (including accidental death) that directly arise out of the Franchisee's construction, operation, maintenance, or removal of the Cable System, including, but not limited to, reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Franchisee timely written notice of its obligation to indemnify and defend the Franchising Authority within ten (10) business days of receipt of a claim or action which it is reasonably clear is covered pursuant to this Section. The Franchising Authority agrees that it will take all necessary action to avoid a default judgment and not prejudice the Franchisee's ability to defend the claim or action. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority.

10.2.1 Franchisee shall not be required to indemnify the Franchising Authority for negligence or misconduct on the part of the Franchising Authority or its officials, boards, commissions, agents, or employees, including any loss or claims related to PEG access Channels in which the Franchising Authority or its designee participates, subject to Applicable Law.

SECTION 11 - System Description and Service

11.1 System Capacity. During the term of this Agreement the Franchisee's Cable System shall be capable of providing Video Programming with reception available to its Subscribers in the Franchise Area in accordance with the Cable Act.

11.2. Cable Service to Public Buildings. Upon written request, the Franchisee agrees to provide, within the City, at no cost to the Franchising Authority, Basic Cable Service and Standard Installation at each governmental or school division building, fire station, police station, library, school, City owned community center and/or other City or School Board-owned or occupied buildings (excluding housing units, outbuildings, storage facilities, buildings owned by the Franchising Authority, but not used for governmental purposes, or buildings at which government employees are not regularly stationed), located within two hundred (200) feet of the Franchisee's existing distribution cable. No charge shall be made for installation or Cable Service, except that Franchisee may charge for installation beyond two hundred (200) feet and beyond one (1) outlet. Any attached structures shall be treated as separate buildings. For the purposes of this section, the term "school" means an educational institutions that receives funding pursuant to Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, and does not include "home schools." Upon written request, The Franchisee agrees to provide or extend the foregoing to any future buildings or facilities of the above-describe nature that are established within the City. Any standard cable drop provided hereunder may be internally extended by, the Franchising Authority, without imposition of any fee therefor by the Franchisee for the provision of Basic Service, however, any such extension performed by the Franchising Authority shall be in accordance with all applicable state and federal rules and regulations. Franchisee agrees to continue to provide, at no cost to the Franchising Authority, the complimentary services currently provided to the facilities identified in Exhibit A.

11.3 Construction/Reconstruction. Construction of Franchisee's Cable System in the City has been completed and no reconstruction is planned, or required, during the term of this Agreement. The Service Obligation under Section 4.1 herein shall satisfy all requirements related to build-out, extension, construction, or reconstruction of the Cable System under this Agreement and the Section 9.5-9 of the City Code.

SECTION 12 - Enforcement of Franchise

12.1 Notice of Violation or Default and Opportunity to Cure. In the event the Franchising Authority believes that the Franchisee has not complied with the material terms of the Franchise, it shall notify the Franchisee in writing with

specific details regarding the exact nature of the alleged non-compliance or default.

12.1.1 Franchisee's Right to Cure or Respond. The Franchisee shall have forty-five (45) days from the receipt of the Franchising Authority's written notice: (i) to respond to the Franchising Authority, contesting the assertion of non-compliance or default; or (ii) to cure such default; or (iii) in the event that, by nature of the default, such default cannot be cured within the forty-five (45) day period, initiate commercially reasonable steps to diligently remedy such default and notify the Franchising Authority of the steps being taken and the projected date that the cure will be completed. In the case of breaches of requirements measured on a monthly, quarterly or longer period, Franchisee's cure period shall be no less than one (1) such period.

12.1.2 Public Hearings. In the event the Franchisee fails to respond to the Franchising Authority's notice or in the event that the alleged default is not remedied within forty five (45) days or the date projected by the Franchisee, the Franchising Authority shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority that is scheduled at a time that is no less than ten (10) business days therefrom. The Franchising Authority shall notify the Franchisee in advance, in writing of the time and place of such meeting and provide the Franchisee with a reasonable opportunity to be heard.

12.1.3 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after such public hearing, determines that the Franchisee is in default of any material provision of the Franchise, the Franchising Authority may: (i) seek specific performance of any provision that reasonably lends itself to such remedy as an alternative to damages, or seek other equitable relief; (ii) pursue liquidated damages under Section 12.1.4 herein, or (iii) in the case of a substantial default of a material provision of the Franchise, initiate revocation proceedings in accordance with Section 12.1.5 herein.

12.1.4 Liquidated Damages. Because it may be difficult to calculate the harm to the Franchising Authority in the event of a breach of this Franchise Agreement by Franchisee, the parties agree to liquidated damages as a reasonable estimation of the actual damages as set forth below. To the extent that the Franchising Authority elects to assess liquidated damages as provided in this Agreement and such liquidated damages have been paid, such damages shall be the Franchising Authority's sole and exclusive remedy. Nothing in this Section is intended to preclude the Franchising Authority from exercising any other right or remedy with respect to a breach that continues past the time the Franchising Authority stops assessing liquidated damages for such breach. Nothing herein is intended to allow duplicative recovery from or payments by Franchisee or its surety(s).

(i) For failure to complete construction or reconstruction of the Cable System, as required under this Agreement, one hundred dollars (\$100) per day for each day the violation continues.

(ii) For failure to provide upon written request, data, documents, reports, information, or to cooperate with the Franchising Authority during an application process or a Cable System review, as required under this Agreement, fifty dollars (\$50) per day for each day the violation continues.

(iii) For failure to test, analyze, and report of the performance of the Cable System, as required under this Agreement, one hundred dollars (\$100) per day for each day the violation continues.

(iv) For failure to provide, in a continuing manner, Cable Service as required under this Agreement, one hundred (\$100) per day for each day the violation continues.

(v) For failure to maintain the technical, operational, or maintenance standards set forth under this Agreement, one hundred (\$100) per day for each day the violation continues.

(a) The Franchising Authority may not assess any liquidated damage if the Franchisee has reasonably responded to the complaint or cured or commenced to cure, as may be appropriate, the violation following receipt of written notice from the Franchising Authority, unless some other cure period is approved by the Franchising Authority. In the event Franchisee fails to cure or commence to cure, or fails to refute the alleged breach, the Franchising Authority may assess liquidated damages and shall inform Franchisee in writing of the assessment. Franchisee shall have thirty (30) days to pay the damages.

(b) Franchisee may appeal (by pursuing judicial relief or other relief afforded by the Franchising Authority) any assessment of liquidated damages within thirty (30) days of receiving written notice of the assessment. Franchisee's obligation to pay the liquidated damages assessed shall be stayed pending resolution of the appeal.

(c) The amount of liquidated damages per annum shall not exceed five thousand dollars (\$5,000) in the aggregate. With respect to liquidated damages assessed herein, all similar violations or failures from the same factual events affecting multiple Subscribers shall be assessed as a single violation, and a violation or a failure may only be assessed under any one (1) of the above-referenced categories.

(d) The first day for which liquidated damages may be assessed, if there has been no cure after the end of the applicable cure period, shall be the day after the end of the applicable cure period, including any extension of the cure period granted by the Franchising Authority. In no event may liquidated damages be assessed for a time period exceeding one hundred twenty (120) days. If after that amount of time Franchisee has not cured or commenced to cure the alleged breach to the satisfaction of the Franchising Authority, the Franchising Authority may pursue all other remedies.

12.4.5 Revocation. The Franchising Authority shall give written notice to the Franchisee of its intent to revoke the Franchise on the basis of a pattern of non-compliance by the Franchisee, including two or more instances of substantial non-compliance with a material provision of the Franchise. The notice shall set forth with specificity the exact nature of the non-compliance. The Franchisee shall have ninety (90) business days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a response from the Franchisee or upon receipt of the response does not agree that the allegations of non-compliance have been or will be resolved, it may then seek revocation of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Franchisee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request revocation of the Franchise.

(a) At the designated public hearing, the Franchising Authority shall give the Franchisee an opportunity to state its position on the matter, present evidence and question witnesses, in accordance with the standards of a fair hearing applicable to administrative hearings in the Commonwealth of Virginia, after which it shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record and a written transcript shall be made available to the Franchisee within ten (10) business days. The decision of the Franchising Authority shall be in writing and shall be delivered to the Franchisee by certified mail. The Franchisee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority “de novo” and to modify or reverse such decision as justice may require.

12.2 Technical Violation. The Franchising Authority agrees that it is not its intention to subject the Franchisee to penalties, fines, forfeitures or revocation of the Franchise for so-called “technical” breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

12.2.1 in instances or for matters where a violation or a breach of the Franchise by the Franchisee was good faith error that resulted in no or minimal negative impact on the Customers within the Franchise Area; or

12.2.2 where there existed circumstances reasonably beyond the control of the Franchisee and which precipitated a violation by the Franchisee of the Franchise, or which were deemed to have prevented the Franchisee from complying with a term or condition of the Franchise.

12.3 No Removal of System. Franchisee shall not be required to remove its Cable System or to sell, transfer, or forfeit the Cable System, or any portion thereof as a result of revocation, denial of renewal, or any other lawful action to forbid or disallow Franchisee from providing Cable Service, if the Cable System is actively being used to facilitate any other services not governed by the Cable Act, or any portion thereof.

12.4 Bond/Letter of Credit. The Franchisee shall obtain and maintain during the entire term of the Franchise, and any renewal or extensions thereof, a performance bond or letter of credit from a financial institution licensed to do business in Virginia in the amount of fifty thousand dollars (\$50,000), to ensure the Franchisee's faithful performance of its obligations hereunder. The Franchising Authority shall give Franchisee twenty (20) business days' notice of its intent to draw from the performance bond or letter of credit. The Franchising Authority may not draw from the performance bond or letter of credit while any action, appeal or other process has been instituted by Franchisee to challenge the amount owed. Since construction of Franchisee's Cable System in the City is complete and no reconstruction is planned, no construction bond shall be required.

SECTION 13 - Competitive Equity

13.1. Non-Exclusive Franchise. The Franchisee acknowledges and agrees that the Franchising Authority reserves the right to grant one (1) or more additional franchises, or other authorizations, to provide wireline video service by providers that have municipal agreements for the occupation of the public rights-of-way within the Franchise Area. If any such additional or competitive franchise, or other authorization, is granted by the Franchising Authority which contains more favorable or less burdensome terms or conditions than this Franchise Agreement when taken as a whole, the Franchising Authority agrees that it shall enter into good faith negotiations to amend this Franchise Agreement to achieve competitive equity of the regulatory and financial burdens, in their entirety, between this Franchise and the competitive authorization. If the Franchising Authority and Franchisee fail to reach agreement in such negotiations, Franchisee may, at its option, elect to shorten the remaining Term of this Franchise to not more than thirty six (36) months and shall be deemed to have

timely invoked the formal renewal rights and procedures set forth in section 626 of the Communications Act, 47 U.S.C. §546.

13.2. Competitive Franchise Application. In the event an application for a cable television franchise, or other authorization, to provide wireline video service by a provider that has a municipal agreement for the occupation of the public rights-of-way is filed with the Franchising Authority proposing to serve the Franchising Area, in whole or in part, the Franchising Authority shall provide, within thirty (30) days, a copy of such application to the Franchisee by registered or certified mail, via nationally recognized overnight courier service to any location in the United States, or by electronic means as specified in the request.

13.3. Nondiscrimination. In the event that a multi-channel video programming distributor ("MVPD") provides video service to the residents of the City under a federal franchise, or other authorization, that is unavailable to the Franchisee, the Franchisee shall have a right to request amendments to this Franchise Agreement that relieve the Franchisee of regulatory burdens that, when taken as a whole, create a competitive disadvantage to the Franchisee. In requesting amendments, the Franchisee shall file a petition seeking to amend the Franchise Agreement. Such petition shall: (1) indicate the presence of a competitor that has a federal franchise, or other authorization; (2) identify the basis for Franchisee's belief that certain provisions of the Franchise Agreement place Franchisee at a competitive disadvantage; and (3) identify the regulatory burdens to be amended or repealed in order to eliminate the competitive disadvantage. If the Franchising Authority denies Franchisee's petition, Franchisee may, at its option, elect to shorten the remaining Term of this Franchise to not more than thirty six (36) months and shall be deemed to have timely invoked the formal renewal rights and procedures set forth in section 626 of the Communications Act, 47 U.S.C. §546.

13.4. Exemption. Video programming services delivered in the Franchise Area upon which the City may not impose similar requirements under state or federal law or that are not subject to the City's franchising authority are exempt from this Section 13.

SECTION 14 - Miscellaneous Provisions

14.1 Force Majeure. The Franchisee shall not be held in default under, or in non-compliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such non-compliance or alleged defaults occurred or were caused by lightning strike, earthquake, flood, tidal wave, unusually severe rain, ice or snow storm, hurricane, tornado, or other catastrophic act of nature; riot, war, labor disputes, environmental restrictions, failure of utility service or the failure of equipment or

facilities not belonging to Franchisee, denial of access to facilities or rights-of-way essential to serving the Franchise Area necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Franchisee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Franchisee's cable or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary.

14.2 Notice. All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, electronic mail registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the Franchising Authority:

City of Danville
City Manager
P.O. Box 3300
427 Patton Street
Danville, Virginia 22801

To the Franchisee:

Comcast
5401 Staples Mill Road
Richmond, VA 23228
Attn: Government Affairs Department

With copies to:

Comcast Cable
7850 Walker Drive, 2nd Floor
Greenbelt, MD 20774
Attn.: Government Affairs Department

And to:

Comcast Cable Northeast Division
676 Island Pond Rd.
Manchester, NH 03109
Attention: Government Affairs Department

14.3 Entire Agreement. This Franchise Agreement and any exhibits or addendums hereto constitute the entire agreement between the Franchising Authority and the Franchisee and supersedes all prior or contemporaneous

agreements, ordinances, representations, promises or understandings, whether written or oral, of the parties regarding the subject matter hereof. Any agreements, ordinances, representations, or understandings or parts of such measures that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

14.4 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

14.5 Governing Law. This Franchise Agreement shall be deemed to be executed in the Commonwealth of Virginia, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the Commonwealth of Virginia, as applicable to contracts entered into and performed entirely within the Commonwealth.

14.6 Modification. No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Franchisee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.

14.7 No Third-Party Beneficiaries. Nothing in this Franchise Agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

14.8 Captions. Captions to sections throughout this Franchise Agreement are solely to facilitate the reading and reference to the sections and provisions of this Franchise Agreement. Such captions shall not affect the meaning or interpretation of this Franchise Agreement.

14.9 No Waiver of Rights. Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, which Franchisee may have under federal or state law unless such waiver is expressly stated herein.

14.10 Incorporation by Reference

14.10.1 All presently and hereafter applicable conditions and requirements of federal, State and generally applicable local laws, including but

not limited to the rules and regulations of the FCC and the State where the Franchise Area is located, as they may be amended from time to time, are incorporated herein by reference to the extent not enumerated herein. However, no such general laws, rules, regulations and codes, as amended, may alter the obligations, interpretation and performance of this Renewal Franchise to the extent that any provision of this Renewal Franchise conflicts with or is inconsistent with such laws, rules or regulations.

14.10.2. Should the State, the federal government or the FCC require Franchisee to perform or refrain from performing any act the performance or non-performance of which is inconsistent with any provisions herein, the Franchising Authority and Franchisee will thereupon, if they determine that a material provision herein is affected, modify any of the provisions herein to reflect such government action.

14.11 Calculation of Time. Where the performance or doing of any act, duty, matter, payment, or operation is required hereunder and the period of time or duration for the performance or doing thereof is prescribed and fixed herein, the time shall be computed so as to exclude the first day and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation.

14.12 Annexation. Upon ninety (90) days' written notice from the Franchising Authority, any additions of territory to the City, by annexation or other legal means, contiguous to the Franchise Area, the portion of any Cable System of the Franchisee that may be located or operated within said territory shall thereafter be subject to all the terms of this Agreement as though it were an extension made hereunder.

14.13 Binding Acceptance. Each party represents to the other that the person signing on its behalf has the legal right and authority to execute, enter into and bind such party to the commitments and obligations set forth herein.

REMAINDER OF PAGE LEFT BLANK UNTIL SIGNATURE PAGE.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of the last date set forth below:

Franchising Authority: City of Danville, VA

By: _____

Print Name: Ken. F. Larking

Title: City Manager

Date: _____

Franchisee: Connecticut/Georgia/ Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC.

By: _____

Print Name: Mary McLaughlin

Title: Regional Senior Vice President

Date: _____

Council Letter

City of Danville, Virginia



CL-1991

Work Session Item #: B.

Work Session Meeting

Meeting Date: 10/04/2018

Subject: Comcast Education and Government Channel Side Agreement

From: Jason Grey, Utilities Director

COUNCIL ACTION

Work Session Meeting: 10/04/2018

SUMMARY

The attached proposed agreement with Comcast details the expectations of changing the existing education and government channels over to high definition television by the third anniversary of the agreement. The agreement also requires Comcast to construct a fiber optic return line from the Municipal Building located at 427 Patton Street, to Comcast's headend located at 320 Coleman Estates Road in Danville, VA. The third requirement of the agreement details the pieces of equipment Comcast will be donating to the City as described in Exhibit A of the agreement.

BACKGROUND

The City and Comcast have negotiated the proposed agreement describing the expectations of each party regarding the educational and government channels for the foreseeable future. The City has a desire to broadcast City Council and other Commission meetings live and in high definition to Comcast customers across their cable system. The items listed in this agreement will assist both parties to provide a premium educational and government access channel to all City residents.

RECOMMENDATION

Staff recommends that City Council approve the mutually negotiated side agreement with Comcast in order to provide educational and government access channels to City residents.

Attachments

Resolution

Agreement

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018-____.____

A RESOLUTION APPROVING AND AUTHORIZING AN AGREEMENT WITH COMCAST OF CONNECTICUT-GEORGIA-MASSACHUSETTS-NEW HAMPSHIRE-NEW YORK-NORTH CAROLINA-VIRGINIA-VERMONT, LLC.

WHEREAS, as part of negotiations with Comcast of Connecticut-Georgia-Massachusetts-New Hampshire-New York-North Carolina-Virginia-Vermont, LLC (“Comcast”) regarding cable services in the City, Comcast has offered to convey certain personal property and make available certain services to the City, not as part of the Franchise Agreement, but as a separate Agreement; and

WHEREAS, the City wishes to enter the Agreement attached to this Resolution and made a part hereof and incorporated herein as **Exhibit A** (the “Agreement”) in order to obtain the property and services set forth therein, which are not otherwise reasonably available.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Danville, Virginia, that it does hereby approve the Agreement attached hereto and incorporated herein as **Exhibit A** (the “Agreement”); and

BE IT FURTHER RESOLVED that the Council of the City of Danville, Virginia, authorizes the City Manager, Kenneth F. Larking, to execute the Agreement.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

AGREEMENT

This agreement is entered as of this ___ day of _____, 2018, by and between COMCAST OF CONNECTICUT/GEORGIA/MASSACHUSETTS/NEW HAMPSHIRE/NEW YORK/NORTH CAROLINA/VIRGINIA/VERMONT, LLC, a Delaware limited liability company duly authorized to transact business in the Commonwealth of Virginia (“Comcast”), and the CITY OF DANVILLE, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (the “City”; collectively, the “Parties”). For their agreement, the Parties state:

WHEREAS, the City is the Franchising Authority for the geographical area within its corporate limits, as defined in the Cable Communications Policy Act of 1984, as amended, 47 U.S.C. §§ 521 *et seq.* (the “Cable Act”); and

WHEREAS, Comcast is a Franchisee, as defined in the Cable Act, for the geographical area within the City’s corporate limits; and

WHEREAS, in order better to carry out the purposes of the Parties, the Franchisee wishes to make certain capital improvements to its cable system and the components thereof in order to improve service within the City:

WITNESSETH:

NOW THEREFORE, in consideration of the mutual promises contained herein, together with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1) *Educational and Governmental (EG) Access Return Line*: Comcast agrees, upon written request from the City, to construct a fiber return line from City Hall, located at 427 Patton Street, Danville, VA 24541, to Comcast’s Headend, located at 320 Coleman Estates Road, Danville, VA 24540, within one hundred eighty (180) days of such request. The demarcation point between Comcast’s equipment and the City’s or EG Access provider’s equipment shall be at the input of the encoder or similar device at the EG signal origination site. The City shall be responsible for all costs related to EG signal delivery to the demarcation point and Comcast shall be responsible for all costs related to EG signal delivery beyond the demarcation point. The cost of the fiber return line shall not be offset against the Virginia Communications Tax paid to the City and Comcast agrees not to pass the cost through as a separate line item on customer bills.

2) *Studio Equipment*: Comcast and the City agree that Comcast shall have no further financial or operational responsibility to maintain the PEG Access studio at 560 Patton Street, Danville, VA 24541, or to produce PEG Access programming. Comcast shall convey ownership of all recording and playback equipment, attached hereto on Exhibit A, that has been used in the operation of such studio to the City for use in support of EG operations and programming, by a deed, bill of sale, or other instrument reasonably acceptable to the City Attorney. The City shall take ownership of said equipment within sixty (60) days of such conveyance.

3) *High-Definition (HD) Educational and Governmental (EG) Access*: Following the third anniversary of the Effective Date of this Agreement, upon one hundred twenty (120) days written request of the Franchising Authority, Franchisee shall deliver one (1) EG Access Channel in HD format. The HD Access Channel shall be a rebroadcast of a current Standard Definition

("SD") Access Channel as long as SD Access Channels continue to be provided on the System. The EG Access provider or Franchising Authority shall be responsible for providing the EG Access signal in HD format acceptable to the Franchisee to the origination location demarcation point. The Franchising Authority acknowledges that a HD Access Channel may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service upon which HD channels are made available. Franchisee is not required to provide free HD equipment to Subscribers or the Franchising Authority.

Prior to the Franchisee being obligated to deliver any EG Access Channel in HD under this section, the Franchising Authority must demonstrate that there is non-repetitive, non-character generated, non-alphanumeric, locally-produced EG Programming available in HD a minimum of six (6) hours-per-day, five (5) days-per-week.

IN WITNESS WHEREOF, the Parties affix hereto their signatures:

COMCAST OF
CONNECTICUT/GEORGIA/MASSACHUSETTS/
NEW HAMPSHIRE/NEW YORK/NORTH
CAROLINA/VIRGINIA/VERMONT, LLC:

By: _____

Its: _____

CITY OF DANVILLE, VIRGINIA:

Kenneth Larking
City Manager

Approved as to legal form:

W. Clarke Whitfield, Jr.
City Attorney

Exhibit A
PEG Access Studio Recording and Playback Equipment

Item	Model #		
Quantafont C.G.	Q6A2	Sony Edit Deck	VO-5850
Panasonic Monitor	tr930w	Sony Cntrl. Cables(2)	RCC-5E
Panasonic Monitor	tr930w	Sony Dub Cable (1)	VDC-5
Panasonic Monitor	tr930w	Hitachi Tuner	SR-2000
Panasonic Monitor	tr930w	JVC	HZ-2100U
Panasonic Monitor	tr930w	JVC Manual Focus	HZ-FM10U
Panasonic Monitor	tr930w	JVC Servo Zoom Ctrl	HZ-ZS10U
Panasonic Monitor	tr930w	JVC Camera Cable 65'	VC-555U
Lenco Frame & PS	PFM-300/302	JVC Camera Cable 65'	VC-555U
Lenco sync module	PFM-320	JVC Cam-VTR Cbl. 14pin	VC-588U
Lenco sync module	PFM-350	JVC Front Support Handl	PN-SC73032
Lenco sync module	PFM-310	Sony Portable Recorder	VO-4800
Crosspoint Latch Swit	6112	Sony Battery Pack	BP-60
Edutron T.B.C.	CCD-2H	Sony Battery Pack	BP-60
JVC CCU	RS-2000	K & H Carry Case for4800	KC-4800
JVC CCU	RS-2000	K & H Video Cart	KHG-2
Sony Monitor	CVM1250	ITE Fluid Head	H-9
Sony Monitor	CVM1250	ITE Fluid Head	H-9
Tektronix Waveform	TSM-5	System Concept C.G.	Q-VIB
Videotek Color Mont.	VM-12PRO	ISI Downstream Keyer	666
Videotek Color Mont.	VM-12PRO	ISI Main Frame	501
	SM-11	ISI Power Supply	505
	SM-11	Lenco Delay Module	PSD-340
	SM-11	Lenco Video DA	PVA-350
Terry Hanely Pwr Pak		Lenco Video DA	PVA-350
Terry Hanely Pwr Pak		Lenco Video DA	PVA-350
Terry Hanely Pwr Pak		Tiffen Star Filters	VV72mm
Terry Hanely Pwr Pak		Tiffen Star Filters	VV72mm
Terry Hanely Pwr Pak		Panasonic	WV-5311
Telex	2400	Panasonic	TR-932
Telex	2400	Panasonic	TR-932
Telex	2400	Sony deck	VP-5000
Telex	2400	Sony deck	VP-5000
Telex	2400	Sony deck	VO-5800
Sony Field Deck *	4800	Panasonic Recorder	
JVC	TM-41AU	Videotek	
JVC PB1 12VBat. for above		Panasonic Monitor	
Lowell tota kit	TI-94-0	Panasonic Monitor	
Sony Edit Deck	VO-5850	Lenco Amplifier	

Convergence Edit Ctrlr	ECS905850	Switcher-Pre Select	6X2SE
Sola Regulator		TBC	388
Sony Generator	SEG2000	Phase Shifter-C Camera	
Panasonic Monitor	52038	Camera/Control Unit	
Sony Deck	VP5000	Camera/Control Unit	
Sony recorder	VO5850	Cable	
Sony recorder	VO5850	3M CG	D5000
Sony Battery Pak	BP60	JVC	CP5000U
Sony Portable Rec.	VO4800	JVC	CP5000U
JVC Battery	BP1U	Otari Reel to Reel(Audio)	MX-5050
JVC 5 Port Mon.	JVTM41AU	Broadcast Electronics Cart	
Teac Audio Mixer	TCTascam3	Deck	Series 3000
Scientific Atlanta Modulator	6350-11	Yamaha EFX Processor	SPX-1000
Scientific Atlanta Modulator	6350-T7	Yamaha Mixing Console	MC1204
JVC Viewfinder	JVVF2500BU	Electro Voice Mic	667A
JVC Viewfinder	JVVF2500BU	Winston PA amplifier	WA-45
Vert. Int. Swit	MM101	Music Library	
Waveform mon.	VTTSMS	Speco Speaker	DMS-3TS
Panasonic Mon.	CT102	Panasonic Monitor	WV763
JVC Lens	HZ21	Sparata Cart Deck	300CP
JVC Extension	VC5140	Shintron Pwr. Supply	374
JVC Camera	KY1900	Sony Betamax Deck	
JVC Camera	KY1900	Telemation Pulse DA	TPA-550
Sony Deck	VO5600	Bencher Copy Stand ^	Copymatell
Panasonic Video	G2JA833771265	JVC 3CCD Color Camera^	3CCD KY-F55
VTS Logger	IGA-450/SP1	JVC AC Adapter for above^	
Sony Mon. & Rk Mt Kit	PVM-8200MB	Ampex Reel to reel^	AG-600
Video Unit		Panasonic VCR VHS^	
Power Supply	147	Sony Deck 3/4"^	
Ikegami Camera	ITC-730	Spart Cart Deck^	300CP
TBC	CCD1H	Furman Audio Mixer^	MM4A
Video Recorder	A2100	Sony Monitor^	PVM-1351Q
Sony Deck	VO5850	Wacom Digitizing Tablet^	UD-0608-R
Sony Deck	VO5800	Panasonic Monitor 9"^	TR-930
Encoder-Color TCE	TM 116/1600	Panasonic Monitor 9"^	TR-930
Color SEG	338/VII-B	DFI PC Server ^	M486V-PRO
Color Sync Generator	949/TSG2C	Inifinity Bookshelf Speakers	
Black Burst Generator	TMV400 134	Jesbee Video Control Center	AB-59
Audio Mixer		Videotek Sync Generator	VSG-201
Cart Deck	3095/300c	Sony Deck	VO-9850
Lighting System		Sony Deck	VO-9850
Pattern Card No.1		Sony Deck	VO-9850
Pattern Card No.2		Sony Deck	VO-9850
Pattern Card No.3		Sony Edit Controller	RM-450
Pattern Card No.4		Sony Slo/mo Deck	BVU-820
Cart Plbk Deck	300C	Luxman CD Player	DZ-92
Cart Plbk Deck	300C	Onkyo Integrated Amp	TX-910
Audio Mixer	CBS4400	Sony Monitor	PVM-1341
Audio Mixer	CBS4000	Sony Monitor	PVM-1341
Demod w/rack	9m911	Sony Monitor	PVM-1341
		Sony Monitor	PVM-1341

Panasonic VHS		VTS Tone Incoder	420
Panasonic VHS		Ikegami Camera	ITC-735
3M Graphics Generator	D-6000	Ikegami Camera	ITC-735
Prime Image TBC		Ikegami Viewfinder	VFM-572
Panasonic Video Switcher	WJ-200R	Ikegami Viewfinder	VFM-572
Videotek Vectorscope	VSM-61	Ikegami Camera	ITC-730
Intergroup Keyer		Shure Wireless Mic	EC4
Ikegami CCU	CCU735	Kodak A/V Projector	260
Ikegami CCU	CCU735	Sony Deck	7020
Grass Valley Group Switcher	110	Sony Deck	7020
JVC Dual Audio Cass. Deck	KD-W110	Sony Condenser Mic	C-48
Panasonic Monitor	CT-1010M	Sony Battery Charger	8C-1WA
Panasonic Monitor	CT-1010M		

Council Letter

City of Danville, Virginia



CL-2001

Work Session Item #: C.

Work Session Meeting

Meeting Date: 10/04/2018

Subject: Staunton River Regional Industrial Facility Authority (SR RIFA)

From: Telly D. Tucker, Economic Development Director

COUNCIL ACTION

Work Session Meeting: 10/04/2018

SUMMARY

The City of Danville, Pittsylvania County, Town of Hurt, and Town of Altavista have all agreed in concept to form a new Regional Industrial Facility Authority (SR RIFA) for the purpose of managing the multimodal park (formerly Burlington Hurt Site) in the town of Hurt. The requested action item has been discussed in concept over the last year and the proposed action defines the cost and revenue sharing agreement that all member locality elected bodies will approve. The agreed upon cost and revenue sharing percentages are as follows: Pittsylvania County - 50%; Altavista - 23%; Danville - 23%; and Hurt - 23%. Similarly, the initial member locality contributions equaling a total of \$100,000 will be divided as follows: Pittsylvania County - \$50,000; Altavista - \$23,000; Danville - \$23,000; and Hurt - \$4,000.

BACKGROUND

On February 23, 2017, a Letter of Intent signing ceremony was held in Hurt, Virginia, during which Pittsylvania County, the Town of Hurt, the Town of Altavista, and the City of Danville, signed a letter stating that the member localities would work together to create a new regional industrial facility authority to market and develop the Southern Virginia Multimodal Park in Hurt. This Authority would be named the Staunton River Regional Industrial Facility Authority ("SR RIFA"). Over the last year and a half, Staff from the member localities have been working together, with input from their governing bodies, to negotiate the terms of a SR RIFA Cost and Revenue Sharing Agreement.

RECOMMENDATION

Staff recommends the approval of the four-member locality agreed upon cost and revenue sharing agreement as presented.

Attachments

[Ordinance](#)

[Code Attachment](#)

[Resolution](#)

[SR RIFA Cost and Revenue Sharing Agreement](#)

[Clerks Certificate](#)

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018-____.____

AN ORDINANCE TO CREATE THE STAUNTON RIVER REGIONAL INDUSTRIAL FACILITY AUTHORITY AND TO ADD ARTICLE XX, ENTITLED "STAUNTON RIVER REGIONAL INDUSTRIAL FACILITY AUTHORITY", SECTIONS 2-410 THROUGH 2-419 TO CHAPTER 2, ENTITLED "ADMINISTRATION" TO THE CODE OF CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED.

WHEREAS, the Council of the City of Danville, Virginia (the "Council") has determined that the economic growth and development of the City of Danville, Virginia, ("City of Danville") and the comfort, convenience, and welfare of its citizens require the development of industrial facilities; and

WHEREAS, the Council has determined that joint action through a regional industrial facility authority with Pittsylvania County, the Town of Hurt, Virginia, the Town of Altavista, Virginia, and the City of Danville, Virginia (collectively, the "Other Member Localities") will facilitate the development of the needed facilities; and

WHEREAS, the Council has determined that regional cooperation in industrial development will assist the City of Danville and the Other Member Localities to achieve a greater degree of economic stability; and

WHEREAS, the Council has further determined that joint action through a regional industrial facility authority by the City of Danville and the Other Member Localities will facilitate the development of needed facilities and enhance the economic base for the member localities by developing, owning, and operating one or more facilities on a cooperative basis; and

WHEREAS, the Council has further determined that formation of a regional industrial facility authority in cooperation with the Other Member Localities and in compliance with the Virginia Regional Industrial Facilities Act, Chapter 64 of Title 15.2 of the Code of Virginia, 1950, as amended, will benefit the inhabitants of the region and

other areas of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia, that the of the Code of the City of Danville, Virginia, 1986, as amended, be, and is hereby, amended and reordained, in accord with Title 15.2, Chapter 64 of the 1950 Code of Virginia, as amended, to create the Staunton River Regional Industrial Facility Authority and to add Article XX, entitled “Staunton River Regional Industrial Facility Authority”, Sections 2-410 through 2-419 to Chapter 2, entitled “Administration”, as attached hereto and made a part hereof as if fully set forth herein as **Exhibit I** (the “Code Amendment”); and

BE IT FURTHER ORDAINED that this ordinance shall become effective upon adoption of a similar ordinance by all of the Other Member Localities, and the adoption of a Cost and Revenue Sharing Agreement by the City of Danville and the Other Member Localities (the “Agreement”); and

BE IT FURTHER ORDAINED that this ordinance shall become effective no later than December 31, 2018, or it shall be considered void; and

BE IT FURTHER ORDAINED that the adopting ordinance of the City of Danville shall contain provisions regarding the Staunton River Regional Industrial Facility Authority identical or substantially similar to the provisions as stated in the following amendment to the respective codes or ordinances of the Other Member Localities, which are made a part of this ordinance; and

BE IT FURTHER ORDAINED that should any section or provision of this ordinance be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance or the Code of the City of Danville, Virginia, 1986, as amended, (the “Code”); and

BE IT FURTHER ORDAINED that the City Manager for the City of Danville, is authorized, upon review and majority vote of the members of the Council in favor of the Agreement, to execute an agreement establishing the respective rights and obligations of the City of Danville and the Other Member Localities with respect to the Staunton River Regional Industrial Facility Authority, consistent with Title 15.2, Chapter 64 of the 1950 Code of Virginia, as amended, and

BE IT FINALLY ORDAINED that all other provisions and Paragraphs, Subparagraphs, and Sections of said Article, Chapter, and Code be, and the same are hereby, continued in full force and effect unless and until the same are hereafter amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

CHAPTER 2. ADMINISTRATION

ARTICLE XX: STAUNTON RIVER REGIONAL INDUSTRIAL FACILITY AUTHORITY

SEC. 2-410 ESTABLISHMENT; DESIGNATION.

There is hereby established a Regional Industrial Facility Authority to be known as the “**Staunton River Regional Industrial Facility Authority**”.

SEC. 2-411 DEFINITIONS.

- A. “**Act**” shall mean the Regional Industrial Facilities Act, Chapter 64 of Title 15.2 of the Code of Virginia, 1950, as amended.
- B. “**Agreement**” shall mean the “Staunton River Cost and Revenue Sharing Agreement” by and among the County of Pittsylvania, Virginia, the Town of Hurt, Virginia, the Town of Altavista, Virginia, and the City of Danville, Virginia.
- C. “**Authority**” shall mean the regional industrial facility authority created hereby by cooperative action of the City of Danville and the Other Member Localities and named herein, the “Staunton River Regional Industrial Facility Authority”.
- D. “**Board of Directors**” shall mean the Board of Directors of the Staunton River Regional Industrial Facility Authority.
- E. “**Governing Body**” shall mean the Board of Supervisors of Pittsylvania County, the Town Council of the Town of Hurt, the Town Council of the Town of Altavista, and the City Council of the City of Danville as members of the Authority.
- F. “**Member Localities**” shall mean all members of the Staunton River Regional Industrial Facility Authority, which initially include the City of Danville and the Other Member Localities.
- G. “**Other Member Localities**” shall mean the Town of Hurt, Virginia, the Town of Altavista, Virginia, and the City of Danville, Virginia.

SEC. 2-412 CREATION, NAME, POWERS, DISSOLUTION AND FISCAL YEAR.

- A. There is hereby created, pursuant to the Act and in conjunction with the adoption of an identical or substantially similar ordinance by the Other Member Localities named the “Staunton River Regional Industrial Facility Authority”.
- B. The Authority is vested with the powers of a body corporate, including the power to sue and be sued in its own name, plead and be impleaded, and adopt and use a common seal and alter the same as may be deemed expedient. The Authority shall have all rights, duties and powers provided by provision of the Act, and including such powers, rights, and duties as may hereafter be set forth from time to time in the Act.

- C. The Authority may be dissolved by resolution of the Board of Directors in compliance with provisions for dissolution stated in the Act.
- D. The fiscal year for the Authority shall be the same as that of the Commonwealth.

SEC. 2-413 PURPOSE.

The Authority is charged with the specific purpose to develop a regional industrial park containing approximately 603.98 acres, located in Hurt, Virginia, commonly known as the Southern Virginia Multi-Modal Park and any one or more other parcels of land located in any of the Member Localities regions as regional industrial parks and for the additional purpose of future development of other industrial properties or other reasons as permitted by the Act and as agreed upon by the Member Localities.

SEC. 2-414 MEMBERSHIP.

The Member Localities of the Authority are the City of Danville and the Other Member Localities, each of which is a political subdivision of the Commonwealth of Virginia, and each of which is authorized by the Act to participate in the Authority. The membership may, with the approval of the Board of Directors, be expanded in compliance with provision for expansion as stated in the Act.

SEC. 2-415 MEMBER LOCALITY AGREEMENT.

The Authority shall be governed by the Act, this article, and by the agreement executed by the Governing Body of each Member Locality. The Agreement shall establish the respective rights and obligations of the Member Localities and shall provide for revenue and economic growth-sharing arrangements with respect to tax revenues and other income and revenues generated by any facility owned by the Authority.

SEC. 2-416 BOARD OF DIRECTORS.

- A. The powers, rights, and duties conferred by the Act upon the Authority shall be exercised by a Board of Directors, which shall consist of two (2) members appointed by the Governing Body of each member locality plus one (1) alternate appointed by the Governing Body of each member locality. The number of directors of the Authority may be supplemented by decision of and appointment by the Governing Bodies as permitted by the Act.
- B. Each Member Locality shall appoint to the Board of Directors two (2) members from its Governing Body to serve an initial four (4) year term pursuant to the Act. Each Member Locality shall also appoint one (1) member from its Governing Body to serve an initial four (4) year term as an alternate director.
- C. In order to remain a director or alternate director of the Authority such director or alternate director must also be a current member of the Governing Body. Once a director or alternate director of the Authority is no longer a member of the

Governing Body, the locality will appoint a new member from its Governing Body to fill the unexpired term of the vacating director. The alternate director shall serve until a new director is appointed.

- D. Each director and alternate director of the Board of Directors, before entering upon the discharge of the duties of the office, shall take and subscribe to the oath prescribed in Section 49-1 of the Code of Virginia, 1950, as amended, and shall serve in compliance with the Act, this Section, and the Agreement.
- E. The Board of Directors shall adopt bylaws, rules and/or regulations to carry out the provisions of the Act. The bylaws, rules, or regulations shall, among other things, specify the principal office for the Authority, identify the schedule and place for meetings of the Board of Directors, and provide for the general administration of the operations of the Authority.
- F. The alternate director may act in place of the director of the same Member Locality if such director is not present at any meeting of the Authority. If the other two (2) directors for a Member Locality are present, the alternate does not have the right to vote.
- G. It shall require a simple majority of the Board of Directors to act unless a greater number is specified in such bylaws, rules and/or regulations, and a simple majority shall constitute a quorum.
- H. Each director of the Board of Directors shall be reimbursed for actual expenses incurred in the performance of their duties from funds available to the Authority.

SEC. 2-417 PRINCIPAL OFFICE LOCATION, RECORDS, AND TITLE TO PROPERTY.

The principal office of the Authority shall be located in Pittsylvania County. All records shall be kept at such office. The title to all property of every kind belonging to the Authority shall be titled in the name of the Authority, which shall hold such title for the benefit of its Member Localities.

SEC. 2-418 FUNDING.

Funding of the Authority shall be by appropriation as decided from time-to-time by the Governing Bodies of the Member Localities and from such other sources as are identified in the Agreement.

SEC. 2-419 REQUIRED REPORTS.

- A. Annual reports. The Board of Directors shall report to the Governing Body of each Member Locality annually, on or before the last March meeting of the Governing Body, on the activities of the Authority. In addition to oral presentation at the meeting, a written annual report shall be provided prior to the meeting and shall contain, at a minimum, the following information:

1. A financial update through December 31 of the current fiscal year;
 2. After completion of the first fiscal year, an audited financial report showing expenditures and revenues and a statement showing the operating and financial condition at the end of the preceding fiscal year;
 3. A written report, approved by the Board of Directors, of the activities and accomplishments of the Authority and recommendations regarding future activities of the Authority; and
 4. A list of tenants, purchasers or other persons occupying the Southern Virginia Multi-Modal Park or any other regional industrial facilities developed by the Authority.
- B. Special reports. Upon written request of the Governing Body of any Member Locality, the Board of Directors shall report to the Governing Body within thirty (30) days of receipt of the request or within a longer period if so provided in the written request. The special report shall describe the activities and financial status of the Authority within the six (6) month period immediately preceding the request, or as otherwise specified in the written request and shall be furnished to each Member Locality. A written report shall be provided if requested.

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018-____.____

A RESOLUTION APPROVING AND AUTHORIZING THE FORM OF THE STAUNTON RIVER COST AND REVENUE SHARING AGREEMENT AMONG THE COUNTY OF PITTSYLVANIA, VIRGINIA, THE TOWN OF HURT, VIRGINIA, THE TOWN OF ALTAVISTA, VIRGINIA, AND THE CITY OF DANVILLE, VIRGINIA.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Danville, Virginia, that it does hereby approve the form of the Staunton River Cost and Revenue Sharing Agreement in the form substantially attached hereto and made a part here of as if full set forth herein as **Exhibit I** (the "Agreement"); and

BE IT FURTHER RESOLVED that the Council of the City of Danville, Virginia, authorizes the City Manager, Kenneth F. Larking, to execute the Agreement.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

STAUNTON RIVER COST AND REVENUE SHARING AGREEMENT

THIS STAUNTON RIVER COST AND REVENUE SHARING AGREEMENT (this "**Agreement**"), made and entered into as of the 17TH day of April 2018, by and among the **COUNTY OF PITTSYLVANIA, VIRGINIA** ("**Pittsylvania**"), a political subdivision of the Commonwealth of Virginia; (ii) the **TOWN OF HURT, VIRGINIA**, a Virginia municipal corporation ("**Hurt**"); (iii) the **TOWN OF ALTAVISTA, VIRGINIA**, a Virginia municipal corporation ("**Altavista**"); and (iv) the **CITY OF DANVILLE, VIRGINIA**, a Virginia municipal corporation ("**Danville**");

W I T N E S S E T H :

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

Section 1. - Recitals. The parties recite the following facts:

a. Pittsylvania, Hurt, Altavista, Danville and others executed that certain letter of intent dated February 23, 2017 (the "**LOI**"), under which the parties hereto desire to work cooperatively to create a regional industrial facility authority pursuant to the Virginia Regional Industrial Facilities Act, Virginia Code ' ' 15.2-6400 et seq., as amended (the "**Act**"), that will develop (i) a regional industrial park containing approximately 603.98 acres (Tax GPINs: 2546-30-5577, 2545-69-2418, 2546-83-6444 and 2545-48-6913), located in Hurt, Virginia, commonly known as the Southern Virginia Multi-Modal Park (the "**SVMP**") and (ii) other projects as may be agreed upon from time to time by the parties.

b. Under the LOI, the regional industrial facility authority would be created to improve the regional economy through the attraction of global industry to the SVMP and the establishment of an intermodal facility at the SVMP that will serve the geographic regions of the parties hereto and that will be publicly recognized as Virginia's second inland port.

c. Each party finds that the economic growth and development of its own locality and the comfort, convenience and welfare of its own citizens require the development of facilities and that joint action through a regional industrial facility authority by Pittsylvania, Hurt, Altavista and Danville as its member localities will facilitate the development of the needed facilities.

d. The purpose of the regional industrial facility authority is to enhance the economic base for Pittsylvania, Hurt, Altavista and Danville by developing, owning, and

operating the SVMP and other agreed upon projects on a cooperative basis involving each of them.

e. In furtherance and support of the LOI, the parties enter into this Agreement as a revenue and economic growth-sharing arrangement, pursuant to Virginia Code ' 15.2-6407, as amended, with respect to tax revenues and other income and revenues generated by any facility owned by the regional industrial facility authority.

Section 2. - Creation of Staunton River Regional Industrial Facility Authority. The parties have established a regional industrial facility authority through adoption of respective ordinances, as allowed by and in compliance with the Act. The terms and duties of the members of the Board of Directors are specified in such ordinances and in the Act. The regional industrial facility authority of which each of the parties is a member locality shall be named the "**Staunton River Regional Industrial Facility Authority**" (the "**SR RIFA**" or the "**Authority**").

Section 3. - Definitions.

- a. "**Act**" shall have the same meaning set forth in Section 1(a) above.
- b. "**Agreement**" shall mean this Agreement or this Staunton River Cost and Revenue Sharing Agreement.
- c. "**Authority**" (or "**SR RIFA**") shall have the same meaning set forth in Section 2 above or Staunton River Regional Industrial Facility Authority, a political subdivision of the Commonwealth of Virginia.
- d. "**Authority Facility**" (or "**Authority Facilities**") shall mean any industrial project of the Authority as agreed by all the Member Localities. As of the date of this Agreement, the Authority does not hold an interest to any portion of the SVMP except as provided in the Development Agreement (as defined in this Section 3); however, the parties acknowledge and agree that the Authority's performance under the Development Agreement and the acquisition of one or more lots of the SVMP shall be deemed to be an Authority Facility.
- e. "**Development Agreement**" shall mean a SR RIFA Development and Option Agreement that the Authority may enter into with the land owners of the SVMP whereby the Authority shall have the option to purchase one or more lots of the SVMP for development as an Authority Facility.
- f. "**Dissolution of Authority**" shall be mean the procedures and division of assets in connection with the dissolution of a regional industrial facility authority as set forth in Virginia

Code ' 15.2-6415, as amended.

g. **"Facility Generated Income and Revenues"** shall mean any and all identifiable tax revenues generated from property owned currently or at some time by the Authority, which may have been sold, leased, conveyed or transferred to any third party.

h. **"Grant Applicant Member Locality"** shall have the same meaning set forth in Section 7 below.

i. **"Host Locality"**, with respect to a specific Authority Facility, shall be defined as the Member Locality in which that Authority Facility is physically located.

j. **"LOI"** shall have the same meaning set forth in Section 1(a) above.

k. **"Member"** or **"Member Locality"** shall mean a member locality of the Authority. As of the date of this Agreement, Member or Member Locality shall include Pittsylvania, Hurt, Altavista and Danville.

l. **"Member Controversy"** shall mean a controversy or claim arising of or related to this Agreement or breach hereof.

m. **"Member Locality Obligation"** shall have the same meaning set forth in Section 16 below.

n. **"Member Share"** or **"Member Shares"** shall mean the following percentages: (i) for Pittsylvania, fifty percent (50%); (ii) for Hurt, four percent (4%) (iii) for Altavista, twenty-three percent (23%); and (iv) for Danville, twenty-three percent (23%).

o. **"Non-Appropriating Member Locality"** shall have the same meaning set forth in Section 16 below.

p. **"Non-Host Locality"** shall be defined as the Member or Member Locality that is not the Host Locality.

q. **"SR RIFA"** (or **"Authority"**) shall have the same meaning set forth in Section 2 above or Staunton River Regional Industrial Facility Authority.

r. **"SVMP"** shall have the same meaning set forth in Section 1(a) above.

s. **"Utility Extension Costs"** shall have the same meaning set forth in Section 4(c) below.

Section 4. - Project Costs; Contributions.

a. Generally. In order to receive and as a condition of receiving its respective Member Share of Facility Generated Income and Revenues under this Agreement, each Member Locality (i) shall make an initial contribution as set forth in Section 8 below and (ii) shall make additional contributions according to its Member Share, as such contributions may be unanimously agreed upon by the Members from time to time in conformance with the provisions of Section 4(b), in the form of adopting an annual budget for the Authority or passing a specific resolution of the Authority for each such additional contribution by all Members. The budget shall include funds for the acquisition, construction and development of any Authority Facility, as well as for marketing and promotion of any Authority Facility. In the event that a Member does not agree, or for whatever other reason, fails to contribute its Member Share as set forth in a unanimously adopted budget or resolution by the Authority, the Authority, by unanimous vote of the remaining Members, shall have the right to waive such additional contribution obligation by that non-contributing Member, and the Member Shares of all of the Members shall be recalculated based on the additional contributions actually made by the other Members. However, no such waiver may be made by the Authority, if doing so shall cause the Member Share of the non-contributing Member to be equal to or less than zero percent (0%). If such waiver is not made by the Authority, the procedures under Section 16 below shall be employed -- the non-contributing Member shall be deemed to be a Non-Appropriating Member Locality and the amount not contributed by that Member shall be deemed to be a Member Locality Obligation.

Notwithstanding any other provision of this Agreement, any future contributions by a Member Locality to the Authority shall be voluntary and subject to an appropriation by the governing body of the Member Locality. The failure of the governing body of a Member Locality to appropriate funds for any future contribution to the Authority shall not be a breach of this Agreement.

b. Recruitment Incentives; Additional Recruitment Incentives. As part of the Authority's mission, the Authority may offer, from time to time, grants or incentives (collectively, the "**Recruitment Incentives**") to an industry or business client in order to recruit such industry or business to locate within any of the Authority Facilities. The cost value of the Recruitment Incentives offered by the Authority shall be solely determined and based upon expected direct taxes paid by the project via the taxable value of machine, tools and real property. The total value of the Recruitment Incentives offered by the Authority shall be dependent upon the targeted return on investment years as unanimously agreed upon by the Members; however, this provision shall not preclude any Member Locality, on its own behalf and expense, from voluntarily offering additional incentives for a particular project's Recruitment Incentives package. In the event of such additional incentives by a Member

Locality (the “**Additive Member Locality**”), the Authority, by unanimous consent of the Member Localities, may deem the value of such additional incentives as a credit toward the Additive Member Locality’s Member Share of the Recruitment Incentives offered for a future project, and the provisions of Section 7 below shall apply.

c. “Opt Out” of Additional Contributions for a Proposed Project. In the event that a proposed project would require additional contributions (whether in cash or other property) from every Member according to its respective Member Share, and one or more Members wish to opt-out from such additional contributions for that project, the Authority, prior to engaging in that project, shall determine by unanimous vote and resolution by its Board of Directors whether one or more of the following would apply: (i) the opting-out Member's share of the revenue from that particular project would be reduced by a fixed dollar amount or by a fixed percentage of up to one hundred percent (100%); (ii) the opting-out Member's share of the revenue from all, but not less than all, Authority projects would be reduced by a fixed dollar amount; and/or (iii) the percentages of the Member Shares would be adjusted based on the value of each such additional contribution made.

d. Utility Extensions. With respect to utility extension installations to an Authority Facility, the costs of any such installation ("**Utility Extension Costs**") shall be deemed to be the exclusive cost of the Member Locality whose service jurisdiction includes the area of such installation. Utility Extension Costs shall be excluded from a cost of the Authority that otherwise would be shared by the Member Localities according to the respective Member Share. Accordingly, Utility Extension Costs shall be disregarded for purposes of any Dissolution of Authority; however, if the Authority, in its sole discretion, advanced Utility Extension Costs for the benefit of a Member Locality and such advance is unpaid, the value of assets of the Authority to be distributed to that Member Locality shall be reduced by an amount equal to the unpaid balance of the advance. Notwithstanding the foregoing, the costs of utility extension installations to the SVMP shall be at the exclusive cost of Pittsylvania (or the Pittsylvania County Service Authority, a political subdivision of the Commonwealth of Virginia, as the case may be).

Notwithstanding any other provision of this Agreement, Altavista shall have no obligation to provide utility services to the SVMP. Any future extensions of utility lines or expansions in treatment or supply capacity by Altavista shall be addressed in a future agreement according to the terms and conditions stated in any such future agreement.

Notwithstanding any other provision of this Agreement, Hurt shall have no obligation to provide utility services to the SVMP. Any future extensions of utility lines or expansions in treatment or supply capacity by Hurt shall be addressed in a future agreement according to the terms and conditions stated in any such future agreement.

Section 5. - Income and Revenues.

a. Income Generated by the Authority. The parties agree that any and all income generated as a result of sales, leases, conveyances, and/or interest on funds held by the Authority shall constitute income generated by the Authority. Such income generated by the Authority shall be held and utilized by the Authority in accordance with the Act to further promote economic development within the localities of the Members, as the Authority in its discretion deems appropriate.

b. Additional Funding Contributions by all Member Localities. The parties agree that additional funding shall be necessary for the acquisition, construction and development of the SVMP and other Authority Facilities designated from time to time. The parties further agree that in the event the Member Localities unanimously determine that such additional funding for such purposes needs to be contributed to the Authority, then each Member Locality shall contribute its respective Member Share of such funding, subject to the provisions of Section 4 above and Section 16 below.

As provided in Section 4(a) above, any future contributions by a Member Locality to the Authority shall be voluntary and subject to an appropriation by the governing body of the Member Locality. The failure of the governing body of a Member Locality to appropriate funds for any future contribution to the Authority shall not be a breach of this Agreement.

Section 6. - Administration of the Funding for Projects. The parties agree that the administration and support given to each Authority Facility as well as support given to the Authority shall be allocated and determined by the Authority. Unless otherwise determined by resolution of the Authority, Pittsylvania shall serve as fiscal agent of the Authority for the development of the SVMP and all other Authority Facilities.

Section 7. - Pursuit of Other Funding. Nothing in this Agreement shall preclude any one or more Member Localities from pursuing, and successfully receiving, other funding sources to pay for site development of, or Recruitment Incentives for, any Authority Facility ("**Grant Applicant Member Locality**"). However, one Member Locality cannot and shall not bind any of the other Member Localities (or the Authority, as the case may be) to any grants without the express written approval of all Member Localities (or the Authority, as the case may be). Moreover, in the event that a Grant Applicant Member Locality is obligated to return grant monies or to make other reimbursements to the grant source or its designee, the amount of such returned monies or reimbursements shall be deemed to be a cost of the Authority and subject to the cost-sharing provisions of Section 4 above, so long as (i) the Grant Applicant Member Locality had obtained written approval from all Member Localities (or the Authority, as the case may be) of the Grant Applicant Member Locality's grant conditions; and (ii) the purposes of the grant were in furtherance of the acquisition, construction or development of an Authority

Facility, including without limitation Recruitment Incentives.

Section 8. - Initial Contributions. The Member Localities hereby acknowledge the initial contributions to the Authority as follows:

Member Locality	Contribution
Pittsylvania	\$50,000.00
Hurt	\$4,000.00
Altavista	\$23,000.00
Danville	\$23,000.00
<i>Total</i>	\$100,000.00

All other contributions from a Member Locality to the Authority shall be acknowledged by the Treasurer of the Authority, who shall update the respective Member Shares of the Member Localities.

Section 9. - Sharing of Machinery and Tools Tax Revenues. Once one or more industries or businesses have located within any Authority Facility, the Host Locality will begin to realize tax revenues from such industries or businesses for machinery and tools tax. The Host Locality alone shall determine the rate at which machinery and tools are taxed and the due date of such taxes. The Host Locality agrees that subject to Section 16 below, upon receipt of machinery and tools tax remitted by an industry or business located within an Authority Facility, the Host Locality shall appropriate the total of taxes so received, pay the same to each of the Non-Host Localities according to the respective Member Share, and retain the remaining amount.

Section 10. - Sharing of Real Property and Personal Property Tax Revenue. Once one or more industries or businesses have located within any Authority Facility or purchased real property in any Authority Facility, the Host Locality will begin to realize tax revenues from such industries or businesses for real property and personal property. The Host Locality alone shall determine the rate at which real and personal property is taxed and the due date of such taxes. The Host Locality agrees that subject to Section 16 below, upon receipt of such real property taxes, personal property taxes or both remitted by an industry or business located within an Authority Facility, the Host Locality shall appropriate the total of taxes so received, pay the same to each of the Non-Host Localities according to the respective Member Share, and retain the remaining amount.

Section 11. - Sharing of Miscellaneous Tax Revenues. Once one or more industries or businesses have located within any Authority Facility, the Host Locality will begin to realize other tax revenues from business license tax, meals tax, lodging tax and any alcohol tax or any income and other Facility Generated Income and Revenues in addition to those described in Sections 9 and 10 above. The Host Locality alone shall determine the tax rates for these taxes and their due dates. The Host Locality agrees that subject to Section 16 below, upon receipt of such taxes remitted shall appropriate the total taxes so received from these industries or businesses located in the Authority Facility, pay the same to each of the Non-Host Localities according to the respective Member Share, and retain the remaining amount. The parties further agree that should the General Assembly of the Commonwealth of Virginia authorize a locality to levy and collect a new local tax and should the Host Locality choose to implement such future tax on property located within a Host Locality, then the parties agree that such new tax revenues realized from a joint regional authority will be shared equally in the same manner and fashion as other taxes within this Agreement.

Section 12. - Payment of Tax Revenues; No Pledge of the Credit or Taxing Power. All tax revenues due to the Non-Host Locality under this Agreement shall be paid by the Host Locality within sixty (60) days after receipt and appropriation of such tax revenues. If any tax delinquencies occur, each Non-Host Locality will pay its respective Member Share of the cost of collecting past due taxes, and will receive its respective Member Share of the penalties and interest accrued and paid. In accordance with Virginia Code ' 15.2-6406, as amended, the sharing of tax revenues of the governing body of a Member Locality pursuant to this Agreement shall not constitute a pledge of the credit or taxing power of such Member Locality.

Section 13. - Decisions by or Consent from the Member Localities. Except for decisions or consents pertaining to Dissolution of Authority, the amendment of this Agreement, or additional contributions to the Authority, or except as otherwise required by law, the requirement of any decision or consent of a Member Locality under this Agreement may be satisfied, but shall not be required to be satisfied, by a writing executed by those certain directors of the Authority who were appointed by that Member Locality.

Section 14. - Dissolution of Authority. In the event of Dissolution of Authority, Dissolution of Authority shall be made pursuant to Virginia Code ' 15.2-6415, as amended. Reference is here made to Section 4(c) above with respect to Utilities Extension Costs and Section 16 below.

Section 15. - Limitation of Liability. The Authority shall ensure the payment of all obligations, costs, and expenses for the implementation of any Authority Facility anticipated under this Agreement. The parties acknowledge that no Member Locality shall be liable or responsible for the financing or for any debts of any Authority Facility, except with the prior express, written consent of that Member Locality or except as expressly provided in this

Agreement.

Section 16. - Non-Appropriation Provision. Notwithstanding any other provision in this Agreement to the contrary, if any Member Locality fails during any fiscal year to appropriate or allocate sufficient funds to pay the amounts to be paid by that Member Locality (the "**Non-Appropriating Member Locality**") pursuant to this Agreement which become due and payable during such fiscal year (the "**Member Locality Obligation**"), then the Member Locality Obligation of that Non-Appropriating Member Locality shall terminate at the end of the fiscal year in which such non-appropriation occurs. However, unless the Member Locality Obligation is waived by the Authority and the Member Shares of the Member Localities are recalculated as set forth in Section 4 above, the unpaid balance of the Member Locality Obligation shall be applied against the Non-Appropriating Member Locality's Member Share of all sums otherwise payable and due to such Non-Appropriating Member under this Agreement.

As provided in Section 4(a) above, the failure of the governing body of a Member Locality to appropriate funds for any future contribution to the Authority shall not be a breach of this Agreement.

Section 17. - Non-waiver. No waiver of any term or condition of this Agreement by any party shall be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of this Agreement.

Section 18. - Attorneys' Fees. Except for the attorneys' fees of Clement & Wheatley, A Professional Corporation, pertaining to the formation of the Authority and the negotiating, drafting, and execution of the Development Agreement which shall be the responsibility of the Authority, each Member shall be solely responsible for its respective attorneys' fees in the negotiating, drafting, and execution of this Agreement and any of the transactions contemplated hereby.

Section 19. - Other Documents. The parties agree that they shall execute, acknowledge, and deliver all such further documents as may be reasonably required to carry out and consummate the transactions contemplated by this Agreement.

Section 20. - Mediation.

a. If the parties are unable to resolve a Member Controversy, the parties shall attempt to resolve the same by mediation by a mediator of The McCammon Group, who is experienced and knowledgeable in the subject matter of such Member Controversy, in accordance with the rules of such mediator or such other rules as the parties in dispute may then agree. If a party fails to respond to a written request for mediation within thirty (30) days after service or fails to participate in any scheduled mediation conference, that party shall be deemed

to have waived its right to mediate the issues in dispute, and any unresolved Member Controversy may be submitted to a court of competent jurisdiction, so long as the venue is located outside the geographic area of the Member Localities in dispute.

b. The mediator from The McCammon Group shall be selected by the parties in dispute. The mediator shall conduct mediation at the location to be agreed upon by the parties in dispute or absent such agreement, by the mediator, so long as the location is not within the geographic area of the Member Localities in dispute. Within two (2) days after selection, the parties in dispute shall furnish the mediator with copies of the notice, this Agreement, the party's (or parties') response, and any other documents exchanged by the parties in dispute. If the mediation does not result in settlement of the Member Controversy within thirty (30) days after the initial mediation conference, then the mediator shall make a written recommendation as to the resolution of the Member Controversy. Each party in dispute, in its sole discretion, shall accept or reject such recommendation in writing within ten (10) days after receipt of such recommendation. If such recommendation is not so accepted by both parties in dispute or a settlement is not so reached within such ten (10) day period, any remaining Member Controversy may be submitted to a court of competent jurisdiction, so long as the venue is located outside the geographic area of the Member Localities in dispute.

c. Notwithstanding anything contained herein to the contrary, the provisions of this Section 20 shall not preclude any party, prior to an election for or pending mediation of a matter, from pursuing in a court of competent jurisdiction temporary injunctive or other equitable relief to protect the parties' respective interests under this Agreement or under the Act.

d. The compensation and expenses of the mediation and any administrative fees or costs of mediation shall be borne equally by the parties in dispute.

Section 21. - Default. The parties retain all rights at law and in equity to enforce the provisions of this Agreement in accordance with applicable law.

Section 22. - Headings. The descriptive headings in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

Section 23. - Notices. Any notice required or contemplated to be given to a party by any of the parties by any other party shall be in writing and shall be given by hand delivery, certified or registered United States mail, or a private courier service which provides evidence of receipt as part of its service, to the Clerk of that Member, with a copy to that Member's attorney and to the attorney of the Authority. Any party may change the address to which notices hereunder are to be sent to it by giving written notice of such change in the manner provided herein. A notice given hereunder shall be deemed given on the date of hand delivery, deposit with the United States Postal Service properly addressed and postage prepaid, or delivery to a

courier service properly addressed with all charges prepaid, as appropriate.

Section 24. - Governing Law; Interpretation. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. The parties have participated jointly in the negotiation and drafting of this Agreement. If any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumptions or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this Agreement. In addition, this Agreement is to be interpreted to the fullest extent possible as a revenue sharing agreement permitted under Virginia Code ' 15.2-6407, as amended, and the obligations of the parties shall not be construed to be a debt within the meaning of Article VII, Section 10 of the Constitution of Virginia.

Section 25. - Amendment, Modification and/or Supplement. The parties may amend, modify, and/or supplement this Agreement in such manner as may be agreed upon by the parties, provided such amendments, modifications, and/or supplement are reduced to writing and signed by the parties or their successors in interest.

Section 26. - Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

Section 27. - Gender and Number. Throughout this Agreement, wherever the context requires or permits, the neuter gender shall be deemed to include the masculine and feminine, and the singular number to include the plural, and vice versa.

Section 28. - Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

Section 29. - Survival. Any termination, cancellation or expiration of this Agreement notwithstanding, provisions which are by their terms intended to survive and continue shall so survive and continue.

[SIGNATURES ON FOLLOWING PAGES.]

WITNESS the following signature to this **STAUNTON RIVER COST AND REVENUE SHARING AGREEMENT** as of the date first above written:

COUNTY OF PITTSYLVANIA, VIRGINIA, a political subdivision of the Commonwealth of Virginia

By: _____
ROBERT W. WARREN, Chairman
Board of Supervisors

ATTEST:

DAVID M. SMITHERMAN
Clerk
County of Pittsylvania, Virginia

APPROVED AS TO FORM:

J. VADEN HUNT
County Attorney
County of Pittsylvania, Virginia

WITNESS the following signature to this **STAUNTON RIVER COST AND REVENUE SHARING AGREEMENT** as of the date first above written:

TOWN OF HURT, VIRGINIA, a Virginia municipal corporation

By: _____
GARY N. POINDEXTER, Mayor
Town Council

ATTEST:

SUSAN NICHOLS
Clerk
Town of Hurt, Virginia

APPROVED AS TO FORM:

RUSSELL O. SLAYTON, ESQ.
Special Counsel to
Town of Hurt, Virginia

WITNESS the following signature to this **STAUNTON RIVER COST AND REVENUE SHARING AGREEMENT** as of the date first above written:

TOWN OF ALTAVISTA, VIRGINIA, a Virginia municipal corporation

By: _____
MICHAEL E. MATTOX, Mayor
Town Council

ATTEST:

J. WAVERLY COGGSDALE, III
Town Manager and Clerk
Town of Altavista, Virginia

APPROVED AS TO FORM:

GREGORY J. HALEY, ESQ.
Special Counsel to
Town of Altavista, Virginia

WITNESS the following signature to this **STAUNTON RIVER COST AND REVENUE SHARING AGREEMENT** as of the date first above written:

CITY OF DANVILLE, VIRGINIA, a Virginia municipal corporation

By: _____
ALONZO L. JONES, Mayor
City Council

ATTEST:

SUSAN M. DeMASI
Clerk
City of Danville, Virginia

APPROVED AS TO FORM:

W. CLARKE WHITFIELD, JR.
City Attorney
City of Danville, Virginia

**CERTIFICATE OF THE CLERK OF THE CITY COUNCIL
OF THE CITY OF DANVILLE, VIRGINIA**

The undersigned Clerk of the City Council (the "**City Council**") of the City of Danville, Virginia, hereby certifies the following:

1. Attached hereto as **Exhibit A** is a true, correct and complete copy of an ordinance duly adopted by the City Council on _____, 2018 (the "**Ordinance**"), creating the Staunton River Regional Industrial Facility Authority (the "**Authority**"). The Ordinance has not been repealed, revoked, rescinded or amended, is in full force and effect on the date hereof, and constitutes the only ordinance adopted by the City Council relating to the creation of the Authority.

2. Attached hereto as **Exhibit B** is a true, correct and complete copy of a resolution approving the form of the Staunton River Cost and Revenue Sharing Agreement (the "**Cost and Revenue Sharing Agreement Resolution**") adopted by the City Council at a meeting duly called and held on _____, 2018. The Cost and Revenue Sharing Agreement Resolution has not been repealed, revoked, rescinded, or amended, and are in full force and effect on the date hereof.

3. This certification is made in accordance with Section 15.2-6402 of the Code of Virginia, 1950, as amended.

Dated: _____, 2018

(SEAL)

SUSAN M. DeMASI
Clerk
City Council of the City of Danville, Virginia

Exhibits:

Exhibit A: Ordinance

Exhibit B: Cost and Revenue Sharing Agreement Resolution

Council Letter

City of Danville, Virginia



CL-2008

Work Session Item #: D.

Work Session Meeting

Meeting Date: 10/04/2018

Subject: Discussion on Free Bus Service during November Elections

From: Ken F. Larking, City Manager

COUNCIL ACTION

Work Session: 10/04/2018

SUMMARY

Council and staff will discuss the possibility of providing citizens with free bus service on Election Day during this year's November elections.

Attachments

No file(s) attached.
