

**MINUTES**

A regular meeting of the Buchanan County Board of Supervisors was held on Thursday the 15<sup>th</sup> day of June, 2017 starting at 10:00 o'clock a.m. in the boardroom of the Buchanan County Courthouse located in Grundy, Virginia.

**PRESENT:** J. Carroll Branham, Chairman  
Trey Adkins  
William P. Harris  
Harold H. Fuller  
G. Roger Rife  
Earl Scott  
Craig Stiltner  
  
L. Lee Moise, County Attorney  
Robert Craig Horn  
County Administrator

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The meeting was called to order with Prayer and Pledge of Allegiance.

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**IN RE: CONSIDER APPROVING MINUTES FOR MAY 1<sup>st</sup>, 8<sup>th</sup>, AND 23<sup>rd</sup>, 2017**

After a general discussion by the board upon motion by Craig Stiltner seconded by Earl Scott and with a roll call vote of seven (7) yeas, William P. Harris, G. Roger Rife, Harold H. Fuller, Earl Scott, J. Carroll Branham, Craig Stiltner, Trey Adkins and zero (0) nays, this board did hereby approve the minutes for May 1<sup>st</sup>, 8<sup>th</sup> and 23<sup>rd</sup>, 2017.

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**IN RE: CONSIDER APPROVING RESOLUTIONS FOR THE VIRGINIA DEPARTMENT OF TRANSPORTATION**

This issue was tabled, no action taken.

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**IN RE: BILLIE OWENS – REQUEST DONATION FOR BUCHANAN COUNTY EAST LITTLE LEAGUE BASEBALL**

Billie Owens with Buchanan County East Little League Baseball requested a contribution in the amount of \$6,250.00 to assist the 10 & 11 year-old girls All-Star Team representing Buchanan County at the state tournament located in King George, Virginia. He stated the event will be held July 6<sup>th</sup> through July 12<sup>th</sup>, 2017.

We are currently in the process of conducting various fund-raisers in an attempt to cover the tremendous amount of travel expenses, lodging and registration fees associated with the event, stated Mr. Owens. Our All-Stars team has worked very hard for this opportunity and we truly feel that the benefits our girls will received from this experience cannot be tracked with a price tag.

Thank you in advance for your assistance, and also on behalf of our players, thank you for your tremendous support, stated Mr. Owens. Without your help, this experience wouldn't be possible.

Craig Stiltner, Rocklick District Supervisor asked if the board approved the funding, could they bring back any funds that's not spent?

Mr. Owens stated yes.

After a general discussion by the board upon motion by Harold H. Fuller seconded by Craig Stiltner and with a roll call vote of seven (7) yeas, Harold H. Fuller, Trey Adkins, Earl Scott, William P. Harris, J. Carroll Branham, Craig Stiltner, G. Roger Rife and zero (0) nays, this board did hereby approve a contribution in the amount of \$7,000 to Buchanan County East Little League earmarked for 10 & 11-year-old girl's All-Starts team representing Buchanan County at the state tournament located in King George, Virginia to be divided equally among the seven (7) district park and recreation or park and development accounts.

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**IN RE: SANDY SHORTRIDGE, 4-H EXTENSION AGENT – REQUEST A DONATION TO ASSIST WITH THE 4-H CAMP SCHOLARSHIPS**

Sandy Shortridge, 4-H Extension Agent requested a contribution to assist with this year's 4-H Camp for children that cannot afford to attend. She stated 85% of the students wanting to attend requested assistance. I've received 27 applications for the camp with room for only 14 more students. I would like for each supervisor to sponsor one (1) child in their district for camp at a cost of \$215.00 each.

After a general discussion by the board upon motion by Harold H. Fuller seconded by Trey Adkins and with the following roll call vote of seven (7) yeas, Harold H. Fuller, Trey Adkins, Earl Scott, William P. Harris, J. Carroll Branham, Craig Stiltner, G. Roger Rife and zero (0) nays this board did hereby approve a contribution in the amount of \$1,505.00 to be divided equally among the seven (7) district park and recreations or park and development accounts to the Extension Office, earmarked for 4-H Camp.

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**IN RE: GENERAL DISCUSSION CONCERNING AN ARTICLE**

Trey Adkins, Knox District Supervisor stated Arron McGlothlin, Mickey McGlothlin's son wrote a letter to The Voice newspaper for the past three (3) weeks about how all seven (7) of us are idiot's. How we are spending our money and wasting our money. We bailed the school system out with \$12 million and cleaned up the mess they had as the public and Buchanan County citizens know, he stated. There was no wrong doing on our part.

I would like to challenge Arron McGlothlin to give back his daddy's credit card back and live on \$600.00 a month income like some of the low-income residents in this county does, move to the Knox District and live on that \$600.00 a month income, while he encourages this board to raise water rates and taxes. I will step down as supervisor after I make the motion to allow him to serve the remainder of my term and see how intelligent he is and if he can make decisions better than I can. I'll make the motion to appoint him to this board if he can live on that \$600.00 a month for a year, commented Mr. Adkins.

We can sit here in this chair and raise water rates on people and sewer rates on people and taxes on people when they're losing their jobs, homes and vehicles, stated Mr. Adkins. This is not an easy job. We've been giving money to Feeding America to bring food to the county for people that's needing it, he stated.

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**IN RE: CONSIDER RATIFYING THE REJECTION OF BIDS FOR THE ROUTE 680 SHOULDER WIDENING PAVEMENT PROJECT. (BIDS EXCEEDED AVAILABLE FUNDING AND SUPERVISOR OPTED TO UTILIZE EXISTING PAVING CONTRACT WITH SHORTT & SON PAVING)**

Robert C. Horn, County Administrator stated Marcus Stiltner, Coal Haul Road Engineer wasn't able to attend the meeting today, but wanted the board to ratify the rejection of bids for the Route 680 shoulder widening pavement project. This is because he was able to save some money and do it another way.

After a general discussion by the board upon motion by Harold H. Fuller seconded by Trey Adkins and with the following roll call vote of seven (7) yeas, Harold H. Fuller, Trey Adkins, G. Roger Rife, Craig Stiltner, William P. Harris, Earl Scott, J. Carroll Branham and zero (0) nays, this board did hereby ratify the rejection of bids for the route 680 shoulder widening pavement project. (Bids exceeded available funding and supervisor opted to utilize existing paving contract with Shortt & Son Paving).

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**IN RE: GENERAL DISCUSSION REGARDING GUM BRANCH**

Several residents on Gum Branch were present for the meeting, Hersel Stiltner, Everett Stiltner, Burton Stiltner and Amanda Blankenship.

Hersel Stiltner stated there's nothing been done regarding the slide on Dum Branch Road located up Page. He stated during a heavy rain several weeks ago, there was a huge slide.

J. Carroll Branham, Chairman stated we'll have Marcus Stiltner, Coal Haul Road Engineer review it and get it taken care of.

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**IN RE: CONSIDER APPROVING TO ACCEPT BID FOR CONCRETE/GROUT FOR COUNTY PROJECTS AND AUTHORIZE THE CHAIRMAN OF THE BUCHANAN COUNTY BOARD OF SUPERVISORS AND COUNTY ADMINISTRATOR FOR BUCHANAN COUNTY, VIRGINIA TO EXECUTE SUCH CONTRACT ON BEHALF OF BUCHANAN COUNTY WITH THE APPROVAL AS TO FORM BY THE COUNTY ATTORNEY**

After a general discussion by the board upon motion by Craig Stiltner seconded by Earl Scott and with the following roll call vote of seven (7) yeas, Harold H. Fuller, Trey Adkins, G. Roger Rife, Craig Stiltner, William P. Harris, Earl Scott, J. Carroll Branham and zero (0) nays, this board did hereby this board did hereby approve to accept the bid for concrete/grout for county projects from McClure Concrete Products, Inc. and authorized the Chairman of the Buchanan County Board of Supervisors and County Administrator for Buchanan County, Virginia to execute the following Contract on behalf of Buchanan County with the approval as to form by the County Attorney:

**CONTRACT FOR BUCHANAN COUNTY CONCRETE/GROUT SUPPLIER**

**THIS AGREEMENT**, made and entered into this the \_\_\_\_\_day of \_\_\_\_\_, 2017 by and between **BUCHANAN COUNTY**, a political subdivision of the Commonwealth of Virginia, party of the first part, and **MCCLURE CONCRETE, INC.**, party of the second part, hereinafter referred to as "Contractor".

**WITNESSETH:**

That for and in consideration of the mutual covenants and agreements herein contained, the parties hereto do hereby agree as follows:

**I. GENERAL PROVISIONS**

The Contractor agrees to furnish concrete and grout for the construction and satisfactory completion of Buchanan County construction projects within Buchanan  
12509

County, VA in accordance with plans and specifications furnished by the Buchanan County Engineering Department or parties thereof.

The Contractor agrees to supply concrete and grout material in accordance with the current Virginia Department of Transportation Road and Bridge Specifications, and special provisions, additions and amendments thereto. Attached and made part of this Agreement by incorporation by reference, identified as Exhibit 'A', is the "Invitation for Bid".

## II. CONTRACT DURATION

The Concrete/Grout Supplier contract shall terminate on June 30, 2018.

## III. CONTACT INFORMATION

Any questions regarding this contract shall be addressed to Marcus Stiltner @ 276-935-4013, 276-870-2212, or [marcus.stiltner@buchanancounty-va.gov](mailto:marcus.stiltner@buchanancounty-va.gov).

## IV. SUBCONTRACTOR REQUIREMENTS

Not Applicable

## V. AWARD AND EXECUTION OF CONTRACT

An official contract Notice – of – Award will be mailed certified by an authorized agent of Buchanan County.

## VI. PRECONSTRUCTION MEETING

Not Applicable

## VII. INVOICING REQUIREMENTS

All concrete/grout material invoices will be paid through the County Administrator's Office. Buchanan County will issue purchase orders for all concrete/grout material. Contractor shall be responsible to ensure purchase order numbers are on all material tickets prior to leaving supplier.

## VIII. SPECIAL TERMS AND CONDITIONS

No additional compensation not provided in this Agreement shall be demanded or received by the Contractor for any additional material provided, unless the foregoing provisions of this Agreement have been complied with strictly and modification of said contract is compliant with VA Code Section 2.2-4309.

No additional material furnished unless on written order of the Board of Supervisors certifying that such material has been approved and authorized by it.

No modification of any of the terms of this contract, nor any extension of contract time shall be valid without the advance written approval of the Buchanan County Board of Supervisors and in compliance with VA Code Section 2.2-4309.

Claims by the Contractors shall be made in accordance with Section 2.2-4363 of the 1950 Code of Virginia, as amended, and shall include a sworn written statement of facts

substantiating such claims, together with copies of all documents and photographs which tend to substantiate such claim. The Contractor shall be allowed to appear before the Board of Supervisors within thirty (30) days after having filed such claim to present its argument in support of such claim. The Board of Supervisors which tends to substantiate such claim in writing within sixty (60) days of the time set for such hearing.

The parties agree that in the event the Contractor defaults in its performance of this Agreement or in the event that any money is paid by the Contractor's surety for the completion of this Contract, that the Contractor shall be disqualified from bidding on any future county construction projects for a period of two (2) years.

The County may cancel this Agreement at any time based upon a majority vote by the Buchanan County Board of Supervisors that such cancellations is in the best interest of the Buchanan County. Any such decision shall be a discretionary decision of the Board. In the event of a cancellation pursuant to this paragraph, then the County shall not be liable to the Contractor for his bidding cost or for any amount other than the fair market value of the construction work completed by the Contractor pursuant to this Contract as of the time of the cancellation.

This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia. The parties agree that the Circuit Court for Buchanan County shall be the proper venue for any litigation hereunder whether or not such alleged breach involves Federal law or jurisdiction.

If any provisions of this Agreement shall be deemed by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall nevertheless remain in full force and effect.

The Contractor is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as registered limited partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity.

#### IX. AUTHORITIES AND DUTIES OF ROAD INSPECTOR

Not Applicable

#### X. PROJECT SPECIFICS

All concrete/grout mixtures shall conform to the Virginia Department of Transportation Road and Bridge Specifications, current edition.

#### XI.

During the performance of this Agreement, the contractor agrees as follows:

- A. i. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

ii. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

iii. Notices, advertisements and solicitations placed in accordance with federal law, rules or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

B. The contractor will include the provisions of the foregoing paragraphs A(i), A(ii), and A(iii) in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

C. During the performance of this contract, the Contractor will:

i. Provide a drug-free workplace for the Contractor's employees;

ii. Post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensations, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

iii. State in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and

iv. Include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

D. During the performance of this contract, the Contractor shall not knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

E. In the event of the Contractor's noncompliance with this section of this Contract, (Section XII), this Agreement may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Agreements and such other sanctions may be imposed and remedies invoked as otherwise provided by law.

EXECUTED IN DUPLICATE ORIGINALS

WITNESS the following signatures and seals:

Name of Prime Contractor: McClure Concrete, Inc.

Duly Representative for Contractor(Print):

Duly Representative for Contractor(Signature):

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\_\_\_\_\_

BUCHANAN COUNTY BOARD OF SUPERVISORS

By: \_\_\_\_\_  
Chairman, Buchanan County Board of Supervisors

ATTEST:

By: \_\_\_\_\_  
County Administrator for Buchanan County

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**IN RE: PUBLIC HEARING – 10:15 A.M. – TO HEAR PUBLIC COMMENTS REGARDING THE PROPOSED ADOPTION OF AN ORDINANCE ENTITLED: “AN ORDINANCE TO SET COLLECTION FEE AND REGULATIONS FOR RESIDENTIAL GARBAGE COLLECTION BY ADDING SECTION 76-8.1 THROUGH 76-8.7 OF CHAPTER 76 OF THE BUCHANAN COUNTY CODE”**

J. Carroll Branham, Chairman opened the public hearing for comments.

L. Lee Moise, County Attorney stated this proposed ordinance is allowing the Buchanan County Public Service Authority (PSA) to collect a \$5 fee for residential garbage collection.

Trey Adkins, Knox District Supervisor and Chairman of the PSA stated if any county resident has public water the garbage collection fee will be added to the bill, but if the resident doesn't have public water then the garbage collection fee will be the only charge on the bill. We need to see if a DMV stop can be done if the garbage bill isn't paid, stated Mr. Adkins.

Mr. Moise stated the amended ordinance is more of a fee than a tax. I'm not sure a DMV stop can be done, but I'll check.

G. Roger Rife, South Grundy District Supervisor stated I think there's a lot of things we need to iron out before it's approved.

Craig Stiltner, Rocklick District Supervisor stated I thought we've already discussed this whole issue. Why wasn't the DMV stop in the proposed ordinance?

Mr. Moise stated I wasn't aware of it or I over looked it. I want to make sure we have the authority to do it.

Upon motion by Craig Stiltner seconded by Harold H. Fuller and with a roll call vote of seven (7) yeas, Craig Stiltner, Harold H. Fuller, Trey Adkins, Earl Scott, J. Carroll Branham, G. Roger Rife, William P. Harris and zero nays, this board did hereby approve to close the public hearing.

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**IN RE:            CONSIDER ADOPTING THE PROPOSED ORDINANCE ENTITLED:  
                      “AN ORDINANCE TO SET COLLECTION FEE AND REGULATIONS  
                      FOR RESIDENTIAL GARBAGE COLLECTION BY ADDING  
                      SECTION 76-8.1 THROUGH 76-8.7 OF CHAPTER 76 OF THE  
                      BUCHANAN COUNTY CODE”**

G. Roger Rife, South Grundy District Supervisor stated when you pass something make sure it's correct. There's been several occasions that the county had to refund money to town residents that is paying garbage fees to the Town of Grundy and it being added to their electric bill. I want to make sure we don't get in a situation where we are doing refunds.

L. Lee Moise, County Attorney stated we can table the proposed ordinance until next month if necessary.

Trey Adkins, Knox District Supervisor and Chairman of the Buchanan County Public Service Authority, stated the PSA's budget is relying on this being done. The town doesn't pay tipping fees to the county, so why don't the county pick-up the town's residents trash, he asked.

Mr. Moise stated we can tweak the language in the proposed ordinance and state that the town will not be included in the \$5.00 per month, since they pay for garbage pick-up to the town.

Mr. Adkins asked how can we enforce the payment?

Mr. Moise stated I need to see if we can add the DMV stop in the ordinance as well as the exception that Town of Grundy residents are not required to pay the \$5.00 per month.

Mr. Adkins stated residents in the town that already pay a garbage fee to the town will need to show proof of the town garbage fee that they pay.

There needs to be an agreement between the Town of Grundy, the county and the PSA, stated Mr. Rife. If pass today and the town is required to pay the \$5.00 then we'll have a problem on the ones that lives in the town. I have to represent the town since the town doesn't have a representative on the PSA, he stated.

Craig Stiltner, Rocklick District Supervisor stated it shouldn't be a big job to eliminate the residents in the town from the computer system so they're not billed.

When the \$3.00 was added to resident's utility bills, it was a consumer utility tax, but the amount was justified for help paying for sanitation trucks, weekly residential garbage pick-up, etc. stated Mr. Moise.

County residents have only been paying \$.75 cents per week for trash pickup, stated Mr. Stiltner.

After a general discussion by the board upon motion of Trey Adkins seconded by Craig Stiltner with a roll call vote of seven (7) yeas, Trey Adkins, Craig Stiltner, William P. Harris, G. Roger Rife, Earl Scott, Harold H. Fuller, J. Carroll Branham and zero (0) nays, this board did hereby adopt the following Ordinance entitled: "An ordinance to set collection fee

and regulations for residential garbage collection by adding section 76-8.1 through 76-8.7 of Chapter 76 of the Buchanan County Code.”

Sec. 76-8.1 - Residential service.

Residential collection service shall occur once per week on a schedule to be established by the contractor and administrator. Refuse must be placed in nonreusable containers which may be placed in reusable containers. Such containers must be placed at the curbside or as close as practicable to collection vehicle routes no later than 6:00 a.m. on the scheduled date of collection. Curbside shall be deemed to be that portion of the street or highway right-of-way adjacent to the paved or traveled portion of the roadway. In the discretion of the administrator in consultation with the contractor, residents living on private roads or roads which are impassable to collection vehicles may be required to deposit refuse in a dumpster provided by the county or the contractor or at a central collection point. There shall be a limitation of five containers collected at each residence per week and only refuse generated at such residence may be disposed of and collected at that residence. It shall be unlawful to place for collection at any residence any refuse which is not generated at such residence or on the property upon which such residence is located. In no event shall commercial or industrial waste be disposed of at a residence. In the event of a multiple unit residence consisting of less than four residential units, each such unit shall be billed separately, and the responsibility for payment of applicable charges shall be that of the occupant of the individual unit.

Sec. 76-8.2. - Multiple residential, townhouses and condominiums of four or more units.

The number and type of containers and collection schedule shall be determined by the administrator in consultation with the contractor taking into consideration the density of the housing units and the average volume of disposable solid waste generated per resident or per unit.

Sec. 76-8.3. - Commercial service.

The county will offer to collect solid waste from commercial establishments by roll-off containers on a contract basis with the County. Each commercial establishment shall properly dispose of its waste in compliance with this chapter and state and federal law.

Sec. 76-8.4. - Institutional and industrial service.

The county will offer to collect solid waste from institutional and industrial establishments by roll-off containers on a contract basis with the County. Each institutional and industrial establishment shall properly dispose of its waste in compliance with this chapter and state and federal law.

Sec. 76-8.5. - Fee for Residential Garbage Pickup

- (a) *Fee to be established by board of supervisors.* For refuse collection at residential units on a once per week basis, the monthly fee of \$5.00 per residential unit is established subject to change by the Board of Supervisors.

Sec.76-8.6. - Service mandatory; responsibility for fees.

- (a) All residents shall use the collection and disposal system operated by the county and, unless otherwise exempted, shall be responsible for the periodic fees as established by the county. Fees shall be imposed for each residence located within the boundaries of the county. At least the minimum collection fee for service shall be required, regardless of whether or not such residence generates solid waste for disposal. The occupant of each residence shall be responsible for payment of any fee imposed; however, if the administrator is unable to ascertain the occupant of any residence within the county, the administrator may charge the solid waste collection and disposal charges to the owner of the real estate.

- (b) Collection fees shall not be required when any residence is not occupied or otherwise in operation for 30 consecutive days, provided that the owner shall notify the administrator prior to the discontinuance of occupancy. Unless such prior notification is provided, occupancy of the residency during any part of any month will obligate the owner for payment of the entire monthly billing. Fees for waste collection and/or disposal services shall not be waived in part or total for any user when, during the county's billing cycle, any use or occupancy of the residential, commercial or industrial facility has occurred, unless waived by act of the board of supervisors.

Sec. 76-8.7. - Billing; payment; late charges.

- (a) Solid waste collection and disposal service charges shall be billed monthly by the county through the Public Service Authority. Any bill for service which remains unpaid after a period of 30 days from the date of billing shall be subject to the payment of an additional service charge of ten percent of the amount of such unpaid bill. In addition to such late fees, unpaid bills will accrue interest after being 30 days delinquent, at the rate of ten percent per annum until paid. All bills shall be rendered by the county through the Public Service Authority and payment shall be made at the office of the Buchanan County Public Service Authority. The Buchanan County Public Service Authority shall bill send a monthly bill which includes the \$5.00 monthly garbage collection fee to the owner(s) or tenants of all residences in the County, regardless of whether such residences receive water and/or sewer services from the Buchanan County Public Service Authority. Residents of the Town of Grundy who receive garbage pickup service from the Town of Grundy are exempted from payment of the County's \$5.00 monthly garbage collection fee.
- (b) There shall be a lien upon real estate for the amount of any fees, or other charges by the county to the owner of the real estate for the use and services of the solid waste disposal system by or in connection with the real estate from and after the time when the fees and/or charges are due and payable, and for any late charges and interest which may accrue thereon, provided, however, that no such lien shall be imposed for nonpayment of disposal fees by a tenant of a one- to four-family residential unit. Upon such charges being more than 90 days delinquent, a notice of such lien shall be recorded in the judgment lien docket book in the office of the clerk of the circuit court for the county, in the name of such owner, showing the total amount of the unpaid fees and charges, late charges and accrued interest, with a copy of such notice being mailed to the owner. The lien shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien, unless the notice provided for has been recorded in the clerk's office as provided in this section.
- (c) When a trash customer of the county agrees by way of contract to enter into a payment plan for a debt of \$1,000.00 or more, the monthly accrual of penalty will freeze as long as the said payment plan contract is being executed, i.e. payment is received monthly at a set minimum of five percent of the total debt in addition to the regular trash bill payment, and to be paid in full within 18 months of the contract. However, if the customer fails to make the monthly payment of the payment plan and/or the due regular trash payment for three consecutive months and/or total of five missed payment plan payments, the said payment plan and contract will be deemed null and void and the county will then pursue in their normal legal collection procedures to extract payment from the trash customer.

It is so ORDAINED this 15<sup>th</sup> day of June, 2017.

RECORDED VOTE:

Motion By: Trey Adkins  
Seconded By: Craig Stiltner

J. Carroll Branham yea  
William P. Harris yea  
Trey Adkins yea  
Craig Stiltner yea  
Harold H. Fuller yea  
Earl Scott yea  
G. Roger Rife yea

ATTEST:

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Robert Craig Horn, County Administrator

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J. Carroll Branham, Chairman

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**IN RE: CONSIDER ADOPTING THE PROPOSED ORDINANCE ENTITLED, "GENERAL COUNTY BUDGET (INCLUDING DOG TAX FUND, LAW LIBRARY FUND AND THE HEAD START PROGRAM FUND) AND THE SCHOOL BUDGET FOR THE FISCAL YEAR BEGINNING JULY 1<sup>ST</sup>, 2017 TO JUNE 30<sup>TH</sup>, 2018 AND THE TAX LEVY FOR THE TAX YEAR COMMENCING JANUARY 1<sup>ST</sup>, 2017**

After a general discussion by the board upon motion by Trey Adkins seconded Craig Stiltner and a roll call vote of seven (7) yeas, Trey Adkins, Craig Stiltner, Harold H. Fuller, Earl Scott, William P. Harris, G. Roger Rife, J. Carroll Branham and zero (0) nays, this board did hereby adopt the following ordinance entitled, "General County Budget (including Dog Tax Fund, Law Library Fund and the Head Start Program Fund) and the school budget for the fiscal year beginning July 1<sup>st</sup>, 2017 to June 30<sup>th</sup>, 2018 and the tax levy for the tax year commencing January 1<sup>st</sup>, 2017:

**VIRGINIA: IN THE BUCHANAN COUNTY BOARD OF SUPERVISORS**

**IN RE: APPROVAL OF THE 2017-2018 BUDGETS FOR BUCHANAN COUNTY AND THE SETTING OF TAX LEVIES FOR BUCHANAN COUNTY**

**THAT WHEREAS**, a public hearing was held at least seven days prior to this date concerning the Buchanan County's budget for the fiscal year 2017-2018, and the Buchanan County Board of Supervisors' proposal to set tax rates for Buchanan County as listed hereafter in this Resolution; and

**WHEREAS**, such public hearing was held after notice had been given as provided by law; and

**NOW THEREFORE**, the Buchanan County Board of Supervisors approves and appropriates the Buchanan County Budget on a departmental basis for the fiscal year 2017-2018, a copy of which is attached hereto marked “Buchanan County Budget for the fiscal year 2017-2018” and made a part hereof by reference; furthermore the Buchanan County Board of Supervisors appropriates the first six months of the County budget on a departmental basis and appropriates the local funding to the School System on a monthly basis as set forth in a separate resolution to be adopted by this Board, and

The Buchanan County Board of Supervisors levies the following taxes for the fiscal year 2017-2018 at the rate listed out from each of such taxes:

- a) Real Estate and Mobile Home Tax at the rate of \$.39 per \$100 of assessed value
- b) Personal Property and Machinery and Tools Tax at the rate of \$1.95 per \$100 of assessed value  
[The tax on motor vehicles will be adjusted to reflect forty-five (45%) percent rate of return from the state on qualifying vehicles.]
- c) Merchants Capital at the rate of \$2.00 per \$100 of assessed value

and,

The Buchanan County Board of Supervisors **RESOLVES** that the following accounts shall have their balance at the end of this fiscal year 2016-2017 applied to their balance as set forth in the County's budget for the fiscal year 2017-2018 (an example of this is if a rescue squad had \$2,000 budgeted for it in the fiscal year 2016-2017 and only had \$1,000 of such sum appropriated to it and spent, then it would have \$3,000 available to it for the fiscal year 2017-2018; likewise, if it had overspent its budget by \$1,000, then it would only have \$1,000 available to it in the fiscal year 2017-2018):

- a) Buchanan County Highways, Streets, and Bridges Accounts;
- b) All Fire Department Accounts;
- c) All State Fire Fund Accounts;
- d) All Rescue Squad Accounts;
- e) All Park and Recreation Accounts;
- f) All Senior Citizens Accounts; and
- g) All Park Development Accounts;
- h) 29<sup>th</sup> Judicial Drug Task Force Account;
- i) Keen Mountain Golf Range Account; and
- j) The Council Pool Account;
- k) The Buchanan County Fair;
- l) The Spearhead Trail;
- m) Race Track.

and, be it further

**RESOLVED** that a sum of money is transferred from Capital Outlay Account at line Item No. 094100-7010 in Buchanan County's budget for the fiscal year 2017-2018 to any of such accounts, which are deficient for the purpose of balancing those accounts for the fiscal year 2017-2018; and, be it further

**RESOLVED** that the total amount of the County budget allocated for the Buchanan County Public School Division for the fiscal year 2017-2018 is \$9,720,000.00; that the total amount of the budget for Buchanan County for the fiscal year 2017-2018, is \$42,877,989.00 ; and that the total amount of revenue which Buchanan County anticipates is \$42,877,989.00 from the collection of taxes and use of surplus funds; the total School Budget is \$33,756,234.00 which is included in the County Budget to be approved; so the total budget that is hereby approved is \$66,914,223.00, (\$42,877,989.00 + \$33,756,234.00 less \$9,720,000.00); and

**RESOLVED**, that supervisors' salaries for the fiscal year 2017-2018 shall remain at their current rates, which are as follows: Chairman \$8,800.00 per year, Vice-Chairman \$8,200.00 per year, and all other members \$7,000.00 per year; and

**RESOLVED**, that the County Administrator is authorized to make transfers of appropriations as necessary to balance accounts with deficit balances at the end of the Fiscal Year; and

**RESOLVED**, that the Treasurer shall transfer the amount needed to bring the account to \$3,944,000.00 in cash from the General Fund to Fund 52 for the Courthouse/Jail renovation project; and

**RESOLVED**, that the Treasures shall transfer cash as needed to satisfy appropriations up to the amount of said appropriations; and

**RESOLVED**, that the County Administrator is authorized to pay bills that are received between Board of Supervisors meetings with such bills being ratified at the next Board of Supervisors meeting; and

**RESOLVED**, that the approved County Budget has been premised in part on the basis of changes to the Consolidated Groups Health Insurance; and

**RESOLVED**, that this Resolution constitutes an Ordinance titled "APPROVAL OF THE 2017-2018 BUDGETS FOR BUCHANAN COUNTY AND THE SETTING OF TAX LEVIES FOR BUCHANAN COUNTY."

The foregoing was adopted by the Buchanan County Board of Supervisors on this the 15<sup>th</sup> day of June, 2017 by the following roll call vote:

J. Carroll Branham	yea
G. Roger Rife	yea
Earl Scott	yea
William P. Harris	yea
Harold H. Fuller	yea

Craig Stiltner            yea  
Trey Adkins              yea

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J. Carroll Branham, CHAIRMAN of the  
Buchanan County Board of Supervisors

ATTEST:

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Robert Craig Horn, County Administrator  
and Clerk of the Board

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**IN RE:            CONSIDER ADOPTING THE RESOLUTION REGARDING THE  
BUCHANAN COUNTY PUBLIC SCHOOLS BUDGETED FUNDS FOR  
FISCAL YEAR 2017/2018**

After a general discussion by the board upon motion by Craig Stiltner seconded Trey Adkins and a roll call vote of six (6) yeas, Craig Stiltner, Trey Adkins, William P. Harris, G. Roger Rife, J. Carroll Branham, Earl Scott and one (1) nay, Harold H. Fuller, this board did hereby adopt the following Resolution regarding the Buchanan County Public Schools budgeted funds for fiscal year 2017/2018:

**RESOLUTION**

**IN RE: BUCHANAN COUNTY PUBLIC SCHOOLS**

**WHEREAS**, Buchanan County's budget for the fiscal year 2017-2018 provides local funding for the Buchanan County Public Schools in the amount of \$9,720,000.00; and

**WHEREAS**, Buchanan County Public Schools needs the funds approved by the board of supervisors in the amount of \$9,720,000.00 to be paid in accordance with a fixed schedule; and

**THEREFORE BE IT RESOLVED**, that the balance of such funds budgeted for Buchanan County Public Schools are transferred from the County's Operating Budget for the county share for the 2017-2018 Fiscal Year School Operation to School Operating Budget R-5105000 in twelve (12) monthly installments of \$810,000.00 each, with the first of such payments to be made on or before the 15<sup>th</sup> day of July, 2017, and with additional transfers to be made on or before the 15<sup>th</sup> day of each month thereafter through the 15<sup>th</sup> day of June 2018, at which time such funds shall be paid in full.

The foregoing Resolution was adopted by the Buchanan County Board of Supervisors on this the 15<sup>th</sup> day of June, 2017.

J. Carroll Branham	Yea
G. Roger Rife	Yea
Earl Scott	Yea
William P. Harris	Yea
Harold H. Fuller	Nay
Craig Stiltner	Yea
Trey Adkins	Yea

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J. Carroll Branham, Chairman  
 Buchanan County Board of Supervisors

ATTEST:

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Robert Craig Horn, County Administrator and Clerk of the Board

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**IN RE: CONSIDER EXTENDING THE LEASE AGREEMENT BETWEEN JAEMONP INVESTMENTS, INC. D/B/A BRICKFLATS MOBILE STORAGE AND BUCHANAN COUNTY REGARDING THE MOBILE HOLDING CELLS DURING THE COURTHOUSE RENOVATION PROJECT FOR AN ADDITIONAL TWELVE (12) MONTHS**

After a general discussion by the board upon motion by Trey Adkins seconded by Craig Stiltner and with the following roll call vote of seven (7) yeas, Trey Adkins, Craig Stiltner, Harold H. Fuller, G. Roger Rife, William P. Harris, Earl Scott, J. Carroll Branham and zero (0) nays, this board did hereby approve to extend the Lease Agreement between JAEMONP Investments, Inc. d/b/a Brickflats Mobile Storage and Buchanan County regarding the mobile holding cells during the courthouse renovation project for an **additional twelve (12) months**.

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**IN RE: CONSIDER APPROVING THE FRANCHISE AGREEMENT BETWEEN BUCHANAN COUNTY AND TIME WARNER SOUTHEAST, LLC, LOCALLY KNOWN AS CHARTER COMMUNICATIONS**

L. Lee Moise, County Attorney stated we've heard from four (4) of the local cable companies regarding the Franchise Agreement (Time Warner/Charter Communication, McClanahan Cable, Mountain Cable and Inter Mountain Cable). The only cable company we haven't heard from is Cable Plus, Inc.

Inter Mountain Cable had issues with Section 5 A, "The Cable Television System will be built in all areas of the unincorporated territory of the county that are not being serviced by a cable television system operator other than franchise or it's affiliates, an open video system



or a satellite master antenna television system.” Also, Charter Communications had a problem Section 10 A that the franchisee maintains a payment location in the county.

Charter Communications and Inter Mountain Cable both wanted Section 11 D to be eliminated, requiring a performance bond from a surety authorized to do business in the state in the amount of \$10,000 which was required, stated Mr. Moise.

Mountain Cable and McClanahan Cable requested Section 8 D be removed that the franchisee shall provide one channel on the cable system for use by the grantor for non-commercial, video programming for public, education and government (“PEG”) access programming, commented Mr. Moise. Also, these two (2) companies requested that the liability insurance be reduced from \$2 million to \$1 million.

Michael E. Tanck, Director of Government Affairs for Time Warner Southeast, LLC locally known as Charter Communications stated I’ve been working with Mr. Moise for approximately six (6) months. Currently, Time Warner/Charter doesn’t provide a PEG channel, but if at any time the county does, we can add it, stated Mr. Tanck.

Mr. Moise stated we can leave the PEG channel in the franchise agreements for Charter/Time Warner and Inter Mountain Cable. It would be a capital improvement request for Mountain and McClanahan Cable to be required to have a PEG channel.

Mr. Moise stated there are four (4) items that need to be eliminated from the franchise agreements for the four (4) companies we’ve heard from: drop the liability insurance from \$2 million to \$1 million; drop the requirements for a performance bond in the amount of \$10,000; leave the PEG channel for Time Warner/Charter and Inter Mountain Cable, but eliminate it from McClanahan and Mountain Cable and eliminate the stand-by power provision for Mountain and McClanahan Cable, but leave it in Time Warner/Charter and Inter Mountain Cable Companies.

Sherry Fletcher with McClanahan Cable stated we have a generator when we can use it, we do. We try to serve our customers.

After a general discussion by the board Upon motion by Trey Adkins seconded Craig Stiltner and a roll call vote of seven (7) yeas, Harold H. Fuller, Trey Adkins, Craig Stiltner, William P. Harris, Earl Scott, G. Roger Rife, J. Carroll Branham and zero (0) nays, this board did hereby approve the following Franchise Agreement between Buchanan County and Time Warner Southeast, LLC, locally known as Charter Communications with the changes noted above and authorized the Chairman of the Buchanan County Board of Supervisors and County Administrator for Buchanan County, Virginia to execute such Contract on behalf of Buchanan County with the approval as to form by the County Attorney:

## FRANCHISE AGREEMENT

The Board of Supervisors of the COUNTY OF BUCHANAN, VIRGINIA, a political subdivision of the Commonwealth of Virginia (County), having held a public hearing and considered economic factors, the impact on private property rights, the impact on public convenience, the public need and potential benefit, and such other factors as are relevant, finds that the renewal of its cable television franchise to TIME WARNER CABLE SOUTHEAST LLC (l/k/a CHARTER COMMUNICATIONS) (Franchisee) will enhance the public welfare.

On the basis of that finding, the Board of Supervisors of the County of Buchanan, Virginia does hereby renew Franchisee's franchise to construct, operate and maintain a cable television system within the jurisdictional limits of the County and, in doing so, enters into an Agreement with Franchisee to include the following terms and conditions (Franchise Agreement):

### SECTION 1

#### DEFINITIONS

For the purpose of this Franchise, the following terms, phrases, words, and their derivations shall have the meanings given herein, unless the context clearly indicates that another meaning is intended. The word "shall" is always mandatory, and not merely directory:

- A. Unincorporated County - "Unincorporated County" shall mean the unincorporated portions of Buchanan County, Virginia.
- B. County - "County" shall mean the County of Buchanan, Virginia.
- C. State - "State" shall mean the Commonwealth of Virginia.
- D. County Administrator - "County Administrator" shall mean the Chief Executive Officer of the County, or his/her designee.
- E. Board of Supervisors; Board - "Board of Supervisors" or "Board" shall mean the governing body of the County or any successor to the legislative powers of the present Board.
- F. County Attorney - "County Attorney" shall mean the existing or succeeding retained legal counsel of the County or his/her assistants.
- G. Franchise - "Franchise" shall mean the permission, license or authorization given hereunder to construct, operate and maintain a Cable Television System in the Unincorporated County including this Franchise Agreement.
- H. Franchisee - "Franchisee" shall mean the Person identified in the first introductory paragraph of this Franchise Agreement as "Franchisee" or any successors, transferees or assignees of such Franchisee.
- I. Cable Act - "Cable Act" shall mean the Cable Communications Policy Act of 1984 as amended and the Cable Television Consumer Protection and Competition Act of 1992 as amended.

J. Federal Communications Commission, FCC - “Federal Communications Commission” or “FCC” shall mean that administrative agency of the Federal government responsible for cable television regulation on a national level, or its lawful successor.

K. Cable Television System, Cable System - “Cable Television System” or “Cable System” shall mean the facility operated by Franchisee within the County that consists of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple Subscribers within the County.

L. Application - “Application” shall include all written communications, in whatever form, made by Franchisee to the County concerning construction, rendition of services, maintenance, or any other matter pertaining to the Cable Television System contemplated herein.

M. Person - “Person” shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

N. Subscriber - “Subscriber” shall mean a purchaser of any video service delivered over the Cable System to an individual dwelling unit or of service to be utilized in connection with a business, trade or profession.

O. Channel - “Channel” shall mean a band of frequencies in the electro-magnetic spectrum which is capable of carrying either one (1) audio-video television signal and/or a number of non-video signals.

P. Basic Cable Subscriber Services; Basic Cable Service – “Basic Cable Subscriber Services” or “Basic Cable Service” shall mean the lowest level of cable service a subscriber can buy. Subject to applicable law, it includes, at a minimum, all over-the-air television broadcast signals carried pursuant to the must-carry requirements of the Cable Act and any public, educational or governmental access channels as required by this Franchise Agreement.

Q. Additional Service - “Additional Service” shall mean any video communications service other than Basic Cable Service provided over the Cable Television System by Franchisee directly or as a carrier for its subsidiaries, affiliates, or any other person engaged in communications services including, but not limited to, premium pay programming.

R. Annual Gross Revenue – “Annual Gross Revenue” shall mean any and all revenues, as determined in accordance with generally accepted accounting principles, actually received by Franchisee from subscribers residing within the County for Cable Services purchased by such subscribers on a regular, recurring monthly basis. Gross Revenues shall not include (1) any taxes, fees or assessments collected by the Franchisee from subscribers for pass-through to a government agency, including the franchise fee and the FCC user fee; (2) bad debt; (3) credits, refunds and deposits paid to Subscribers; (4) any exclusions available under applicable State law.

S. Street - “Street” shall mean the surface of and the space above, between, or below any public street, road, highway, freeway, lane, path, public way or place, alley, court, sidewalk, boulevard, parkway, drive or other easement now or hereafter used for the purpose of public travel and shall include such other easements or rights-of-way as shall be now or hereafter held by the County which shall, within their proper use and meaning, entitle the County and its Franchisee to the use thereof for the purpose of installing or transmitting Cable Television System transmissions over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a Cable Television System.

T. Public School - “Public School” shall mean any state accredited elementary and or secondary school that is a part of an educational program operated by the County.

U. Private School - “Private School” shall mean any state accredited elementary and or secondary school that is part of a parochial or religious school system and is operated not for profit.

V. Local Educational Authorities - “Local Educational Authorities” shall mean those individuals, groups, organizations, or governmental entities that provide for primary or secondary education, whether public or private, within the County.

W. Good Cause - “Good Cause” shall represent that set of facts and circumstances which, in an individual case, a reasonable man would adjudge to be beyond Franchisee’s reasonable control and which would, therefore, represent a justifiable excuse of non-performance. Depending on the facts and circumstances, good cause may include, but shall not be limited to, delays or interruptions arising from necessary utility changes, rearrangements, power outages, damage to the equipment of Franchisee by the County or a third party, the fulfillment of any Federal, state and/or local governmental or regulatory restrictions or requirements, national emergency, uncontrollable material shortages, fire, earthquakes or the elements and acts of God.

## **SECTION 2**

### **FRANCHISE AGREEMENT**

There is hereby granted by the County of Buchanan to Franchisee, its successors and assigns, the right, privilege and Franchise to construct, operate, maintain and upgrade a Cable Television System within the Franchise Territory as herein defined, for an initial term of ten (10) years from the effective date of this Franchise Agreement, subject to the conditions and restrictions as hereinafter provided. This Franchise Agreement will be automatically extended for an additional term of five (5) years, unless either party notifies the other in writing of its desire to not exercise this automatic extension (and enter renewal negotiations under the

Cable Act) at least three (3) years before the expiration of this Franchise. If such a notice is given, the parties will then proceed under the federal Cable Act renewal procedures. Nothing in this Franchise shall be construed to prohibit the Franchisee from offering any service over its Cable Television System that is not prohibited by federal or State law.

## **SECTION 3**

### **AUTHORITY NOT EXCLUSIVE**

The right to use and occupy said Franchise Territory as defined in Section 4 herein for the purposes herein set forth shall not be exclusive, and the County reserves the right to grant a similar use of said Franchise Territory to any person or entity at any time during the term of this Franchise Agreement, in accordance with state and federal regulations provided, however, no other franchises for a cable service will be granted on terms or conditions more favorable or less burdensome than in any existing franchise.

## **SECTION 4**

### **FRANCHISE TERRITORY**

The Franchise Territory for the Franchise given in this Franchise Agreement is for the present territorial limits of the Unincorporated County and for any area henceforth added thereto during the term of this Franchise Agreement. A copy of the areas within the County that are currently serviced by Franchisee is attached as Exhibit A. Franchisee shall provide to

the County a copy of any revisions to the service area as set forth in Exhibit A within thirty (30) days of the effective date of such revision. In addition, Franchisee shall maintain maps and/or plats of the Cable Television System, copies of which shall be furnished for inspection by the County, upon request.

## **SECTION 5**

### OPERATIONAL STANDARDS

A. The Cable Television System shall be installed and maintained in accordance with this Franchise and any generally applicable County ordinances, resolutions, rules and regulations heretofore or hereafter adopted and established during the term of the Franchise. The Cable Television System will be built in all areas of the unincorporated territory of the County that (1) are not being served by a cable television system operator other than Franchisee or its affiliates, an open video system or a satellite master antenna television system, and (2) have a density of twenty-five (25) occupied dwelling units per linear strand mile of cable. The number of miles will be calculated starting at the closest point of active distribution system and will continue until reaching 125 feet of the dwelling unit.

B. No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of Subsection A above, Franchisee will consider extending the Cable System to Subscribers in that area if the Subscribers are willing to share the capital costs of extending the Cable System. Franchisee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any Standard/non-standard Installation charges to extend the Cable System from the tap to the residence.

C. Subject to applicable law, the Franchisee shall provide upon request of the Board, free of charge, one Basic Service connection to each public school and each County owned or leased building used for governmental purposes, fire station and police station listed in the attached Exhibit B.

D. Franchisee shall maintain emergency standby power supplies at its headend capable of providing up to twenty-four (24) hours of emergency power in the event of a power outage.

E. The Cable Television System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in part 76 of the FCC's rules and regulations as may be amended from time to time, regardless of the transmission technology utilized.

F. The requirements of A through E above, or any of them, may be waived by the County upon showing of Good Cause.

## **SECTION 6**

### CONSTRUCTION STANDARDS

A. Franchisee shall, at all times, employ reasonable care and shall install and maintain devices or systems for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public,

B. Franchisee shall install and maintain its wires, cables, fixtures and other equipment so as not to interfere with the equipment of any utility serving the residents of the County or any other entity lawfully and rightfully using the conduit, pole or other part of the right of way.

C. The Cable Television System shall at all times conform to the construction and maintenance standards set forth below.

(1) Methods of construction, installation and maintenance of the Cable Television System shall comply with the most current version of the National Electrical Safety Code, and any future amendments, modifications or replacements thereof. However, in the event the National Electrical Safety Code should become obsolete or should expire, then Franchisee shall be required to comply with the latest set of published standards available at such time of obsolescence or expiration. This Franchise Agreement provision shall in no way be interpreted to waive or otherwise diminish the need of Franchisee to comply with other applicable federal and state standards that may not be referenced in the text of this Franchise Agreement

(2) All working facilities and conditions used during construction, installation and maintenance of the Cable Television System shall comply with the standards of the Occupational Safety and Health Administration.

(3) Franchisee shall at all times use reasonable care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(4) Franchisee shall construct and operate the system and related facilities in accordance with generally accepted related industry codes, standards and recommendations that are applicable now or that may hereafter become applicable.

D. All conductors, cables, towers, poles and other components of the system shall be located and constructed to provide minimum interference with access by adjoining property owners to the streets and public ways, and no pole or other fixture of the Franchisee shall be placed in the public way so as to interfere with the usual travel on such public way.

E. The requirements of A through E above, or any of them, may be waived by the County upon showing of Good Cause.

## **SECTION 7**

### **CONDITIONS OF STREET OCCUPANCY**

A. All transmissions and distribution structures, lines and equipment erected by Franchisee within the Franchise Territory shall be located so as to not cause unreasonable interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of said streets, alleys or other public ways and places. The Cable Television System shall be constructed and operated in compliance in all material respects with all national, state, and generally applicable construction codes which are in effect as of the date of this construction.

B. Franchisee shall obtain all legally required permits before commencing any construction work, including the opening or disturbance of any Street within the Franchise Territory, provided that such permit requirements are of general applicability and such permitting requirements are uniformly and consistently applied by the County as to other public utility companies and other entities operating in the Franchise Territory. The County shall cooperate with the Franchisee in granting any permits required, providing such grant and subsequent construction by the Franchisee shall not unduly interfere with the use of such Streets. Notwithstanding the above, and to the extent Franchisee is required to pay a franchise fee in accordance with Section 9(B) of this Franchise, the Grantee may set off any administrative permit

fees or other fees required by the Grantor related to the Grantee's use of Grantor rights-of-way against the franchise fee payments.

Whenever the County or State shall require the relocation or re-installation of any property of Franchisee in any of the Streets of the Franchise Territory, it shall be the obligation of the Franchisee, upon thirty (30) days' notice of such requirements, to cooperate in the timely removal and relocation or reinstallation of said property so as not to cause unreasonable delay. Such relocations, removal or reinstallation by Franchisee shall be at the sole cost of Franchisee to the extent all other users of the County Streets are responsible for the costs related to the relocation of their facilities if governmental funds are not available to reimburse Franchisee for such activity.

C. Whenever in any place within the Franchise Territory, all or any part of both the electric and telephone utilities shall be located underground, it shall be the obligation of the Franchisee to locate or to cause its property to be located underground within such places. If the electric and telephone utilities are to be relocated underground in any place within the Franchise Territory after Franchisee previously installed its property, Franchisee shall, nevertheless, at the same time or in a timely manner thereafter, remove and relocate its property also underground in such places. Any facilities of Franchisee placed underground at the property owner's request, in an area where electric or telephone facilities are aerial, shall be installed with the additional expense being paid by the property owner.

D. Franchisee shall have the authority to trim trees upon and overhanging streets of the Franchise Territory so as to prevent the branches of such trees from coming into contact with Franchisees wires and cables. Franchisee shall comply with generally applicable local laws and ordinances, including reasonable permitting requirements, concerning tree trimming to the extent such laws and ordinances are applied uniformly to all occupiers of the Streets.

E. In the case of any disturbance of any road, ditch or other area within the County right-of-way caused by Franchisee, Franchisee shall, at its own cost and expense and in a manner approved by the County, replace and restore such street or sidewalk in as good a condition as before the work involving such disturbance was done.

F. Franchisee shall, upon the request of any person holding a building permit issued by the County, temporarily remove, raise or lower its wires to permit the moving of such building(s). The expense of such temporary removal or raising or lowering of the wires shall be paid by the person requesting the same, and the Franchisee shall have the authority to require such payment in advance. Franchise shall be given not less than twenty-one (21) days advance notice to arrange for such temporary wire changes.

F. Franchisee's work, while in progress, shall be properly executed at all times with suitable barricades, flags, lights, flares or other devices as are reasonably required to protect all members of the public having occasion to use the portion of the street involved or adjacent property.

## **SECTION 8**

### **SUPERVISION BY THE COUNTY**

A. Franchisee shall construct, operate and maintain the Cable Television System in strict compliance with FCC regulations.

B. The Cable Television System and all parts thereof shall be subject, upon reasonable notice, to the right of periodic inspection by the County.

If at any time, the powers of the Board or any agency or official of the Board are transferred by law to any other board, authority, agency or official, then such other board, authority, agency or official shall have the powers and rights previously vested under this Franchise in the Board or any agency or official of the County.

C. Franchisee shall provide one channel on the Cable System for use by the Grantor for non-commercial, video programming for public, education and government (“PEG”) access programming. The PEG Channel may be placed on any tier of service available to Subscribers.

D. Franchise shall comply with 47 U.S.C. 544(g) and all regulations issued pursuant thereto with respect to an Emergency Alert System (“EAS”). If Franchisee provides an EAS, then the County shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Franchisee’s Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. To the extent permitted by law the County shall hold the Franchisee, its employees, officers and assigns harmless from any claims or costs arising out of use of the EAS, including, but not limited to, reasonable attorneys’ fees and costs.

## **SECTION 9**

### **FRANCHISE FEES**

A. 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 from time to time, and, with the exception of required compliance with the Virginia Communications Sales and Use Tax, the provisions of this section shall not have any effect, for so long as the Communications Sales and Use Tax or a successor state or local tax that constitute a franchise fee for purposes of 47 U.S.C. § 641, as amended, is imposed on the sale of cable services by the Franchisee to subscribers in the county.

B. In the event that the Communications Sales and Use 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. § 641, as amended, the County may provide written notice to Franchisee of its intent to begin collecting franchise fees under this section. The franchise fee shall be in an amount equal to five percent (5%) of Grantee’s Annual Gross Revenues. The first payment period for the franchise fee to be paid under this section shall commence ninety (90) days after Grantee’s receipt of Grantor’s written notice, but no sooner than ninety (90) days after the effective date of such change in law. The amount of franchise fee and the method of calculation shall be equal when compared to the amount or method of calculation of the franchise fee in any other cable franchise or authorization to provide video service granted by Grantor. In the event any other cable franchise or authorization to provide video service provides for a lesser franchise fee than this Franchise, Grantee’s obligation to pay a franchise fee under this section shall be reduced by an equivalent amount.

C. Franchise fee payments due to the County under this section shall be calculated on an annual basis. Franchisee agrees to pay the County on a yearly basis, within forty-five (45) days of the end of the calendar year. Upon written request from the County, Franchisee shall furnish a statement of said payment, reflecting the Annual Gross Revenues on which the payment is based.

D. Franchisee may pass franchise fees through to Subscribers as a line item on subscriber bills or otherwise as Franchisee chooses, consistent with applicable law.

E. In the event Grantee pays a franchise fee under this section, upon reasonable notice, the County shall have the right during normal business hours to inspect Grantee’s records



relevant to the payment of franchise fees and the right to audit or otherwise review and re-compute any amounts determined to be payable under this Ordinance; provided, however, that any such audit or review shall be completed within thirty-six (36) months following the date of the payment subject to audit or review.

**SECTION 10**

CUSTOMER SERVICE

A. Franchisee shall comply with all the customer service standards promulgated by the FCC, including without limitation 47 C.F.R. §§ 76.309; 76.1602; 76.1603; and 76.1619, in accordance with the Cable Act for as long as such standards are in effect. However, if the franchisee maintains a payment location in the County, no additional customer service center is needed.

B. Franchisee shall not deny service, deny access, or otherwise discriminate against Subscribers, Channel users, or general citizens on the basis of race, color, religion, national origin, age or sex.

C. Franchisee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).

**SECTION 11**

INSURANCE AND PERFORMANCE BOND

A. The Franchisee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	\$1,000,000 per occurrence, Combined Single Liability (C.S.L.) \$1,000,000 General Aggregate
Auto Liability including coverage	\$1,000,000 per occurrence C.S.L. on all owned, non-owned hired autos
Umbrella Liability	\$1,000,000 per occurrence C.S.L.

B. The Grantor shall be added as an additional insured, arising out of work performed by Charter, to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.

C. The Franchisee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.

**SECTION 12**

GENERAL INDEMNIFICATION

A. The Franchisee shall, by acceptance of the Franchise granted herein, defend the County, its officers, boards, commissions, agents, and employees for all claims for injury or death to any Person or property damage caused by the negligence of Franchisee in the construction or operation of the Cable System and in the event of a determination of liability shall indemnify and hold County, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any

injury or death to any Person or property damage as a result of the negligence of Franchisee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System, provided that the County shall give the Franchisee written notice of its obligation to indemnify the County within fourteen (14) days of receipt of a claim or action pursuant to this section. In the event any such claim arises, the County shall tender the defense thereof to the Franchisee and the Franchisee shall have the right to defend, settle or compromise any claims arising hereunder and the County shall cooperate fully herein. If the County determines in good faith that its interests cannot be represented by the Franchisee, the Franchisee shall be excused from any obligation to represent the County. Notwithstanding the foregoing, the Franchisee shall not be obligated to indemnify the County for any damages, liability or claims resulting from the willful misconduct or negligence of the County or for the County's use of the Cable System, including any PEG channels.

B. In the event Franchisee has been determined to have materially breached its obligation to provide a defense to the County, Franchisee shall pay all expenses reasonably incurred by the County as a direct and proximate cause of such breach.

### **SECTION 13**

#### **ASSIGNMENT OF FRANCHISE**

A. No assignment of this Franchise shall take place, whether by forced or voluntary sale, lease, or assignment, without prior written notice to and approval by the Board, which approval shall not be unreasonably withheld. The notice shall include full identifying particulars of the proposed transaction; including, but not limited to, the name, address, telephone number, facsimile number, and, if available, the e-mail address of the contact person for notification purposes under this Franchise Agreement after completion of the transaction. The Board shall act by resolution to approve or deny continued operation of the Franchise pursuant to this Franchise Agreement after completion of the transaction. The Board shall have forty-five (45) days within which to approve or disapprove a proposed assignment of this Franchise Agreement. If no action is taken within such forty-five (45) day period, approval shall be deemed to have been given. This subsection does not apply to any restructuring, recapitalization or refinancing that does not change the effective control of Franchisee or the responsible party for purposes of meeting the responsibilities of this Franchise Agreement.

B. Franchisee shall have the right to mortgage, pledge or otherwise hypothecate the assets of its Cable Television System including the rights granted under this Franchise without the approval of the board.

### **SECTION 14**

#### **REVIEW & RENEWAL**

A. The County and the Franchise agree that any proceedings undertaken by the County that relate to the renewal of the Franchisee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute.

B. It shall be the policy of the County to amend this Franchise upon application of the Franchisee when necessary to enable Franchisee to take advantage of advancements in the state of the art which will afford it an opportunity to more effectively, efficiently or economically serve its Subscribers. No such amendment shall create any rights in Franchisee other than those specifically set out in such amendments, and nothing in this Section 14(B) shall be construed to waive or alter Franchisee's right to seek modification of this Franchise in accordance with 47 U.S.C. § 545.

## SECTION 15

### ENFORCEMENT OR REVOCATION OF FRANCHISE

A. In addition to all other rights and powers reserved or pertaining to the County, the County reserves, as an additional and as a separate and distinct remedy, the right to revoke this Franchise and all rights and privileges of Franchisee hereunder in any of the following enumerated events or for any of the following reasons:

(1) Franchisee shall, by act or omission, violate any material or substantial term or condition of this Franchise Agreement and shall within thirty (30) days following written notice by the County fail to (i) respond to the County, contesting the assertion of noncompliance; (ii) cure such noncompliance, or (iii) begin to take such reasonable steps as necessary to bring the Franchisee into such compliance; or

(2) Franchisee becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt, or all or part of Franchisees facilities should be sold under an instrument to secure a debt and are not redeemed by Franchisee within thirty (30) days from said sale in accordance with federal bankruptcy law; or

(3) Franchisee is adjudicated to have practiced or attempted to practice any fraud or deceit or pattern of material misrepresentation on a matter material to the franchise in its conduct or relations with the County under this Franchise.

B. No such revocation shall be effective unless or until the Board shall have adopted a Resolution setting forth the cause and reason for the revocation and the effective date thereof, which Resolution shall not be adopted without thirty (30) days' prior written notice thereof to Franchisee and an opportunity for the Franchisee to be heard upon the proposed adoption of said Resolution, and to present evidence and question witnesses. Franchisee shall furnish to the County a written statement at least ten (10) days prior to the date on which the Board will convene to consider such proposed Resolution setting out its position relative to the cause(s) of such revocation. The Franchisee shall have the right to present evidence if requested by Franchisee.

C. Notwithstanding the grounds for termination herein, no termination procedure shall be held except in compliance with FCC Rules and Regulations and the Cable Act.

D. Franchisee shall not be declared in default nor be subject to any sanction under any provision of this Section in any case in which the performance of such provision is prevented for reasons of Good Cause. The Grantee may appeal any final determination by the Board to an appropriate court, which shall have the power to review the decision of the Board *de novo*.

E. The County Administrator shall provide Franchisee with written notice of any Resolution to revoke the Franchise as provided for above.

F. In the event of revocation of this Franchise as provided for above, or in the event this Franchise is not renewed as provided for above, the County shall have the option of either: (1) requiring Franchisee to commence removal from the public streets above which its cables are located, within ninety (90) days of the effective date of receiving written notice of such revocation or non-renewal; (2) permitting Franchisee to abandon the Cable System in Place; or (3) seeking to acquire or effectuating the sale of the Cable System in accordance with 47 U.S.C. .§ 547.

## **SECTION 16**

### **RIGHTS RESERVED TO THE COUNTY**

Without limitation upon the rights that the County might otherwise have, the County does hereby expressly reserve the following rights, powers and authorities:

A. To exercise its governmental police powers now or hereafter to the full extent that such powers may be vested in or granted to the County, provided that any such exercise does not have the effect of limiting the benefits or expanding the obligations of the Franchisee that are granted by this Franchise.

B. To grant additional franchises within the County to other persons for the construction of a cable television system.

C. To exercise any other rights, powers or duties required or authorized under the Constitution and laws of the Commonwealth of Virginia or the Constitution and laws of the United States of America.

## **SECTION 17**

### **COMPLIANCE WITH MUNICIPAL, STATE AND FEDERAL LAWS RULES AND REGULATIONS**

A. Notwithstanding any other provision of this Franchise to the contrary, Franchisee shall at all times reasonably comply with all laws, rules and regulations of the State and Federal governments or any administrative agencies thereof; provided, however, that if any such State or Federal law, rule or regulation shall require Franchisee to perform any service or shall prohibit Franchisee from performing any service or shall permit Franchisee to perform any service in conflict with the terms of this Franchise or of any law, rule or regulation of the County, then as soon as possible following knowledge thereof, Franchisee shall notify the County Administrator of the point of conflict believed to exist between such law, rule or regulation and the rules or regulations of the County or this Franchise; provided, however, that nothing herein shall compel Franchisee to act in any way which violates or contravenes any State or Federal law, rule or regulation or this Franchise Agreement.

B. Franchisee shall be subject to all applicable rules and regulations that, from time to time, may be promulgated by the Federal Communications Board for Cable Television Systems.

## **SECTION 18**

### **FRANCHISEE TO HAVE NO RECOURSE**

A. Except as expressly provided for in this Franchise, and in accordance with 47 U.S.C. § 555a, any court proceeding involving any claim against the County with respect to a grant, renewal, transfer, or amendment of this Franchise, any relief, to the extent such relief is required by any other provision of Federal, State, or local law, shall be limited to injunctive relief and declaratory relief.

B. Franchisee expressly acknowledges that upon acceptance of this Franchise it did so relying upon its own investigation and understanding of the power and authority of the County to grant this Franchise. Franchisee further acknowledges by the acceptance of this Franchise that it has carefully read the terms and conditions hereof and is willing to and does accept all of the risks of the meaning of such terms and conditions.

C. Franchisee further acknowledges by the acceptance of this Franchise that this Franchise is non-exclusive.

## **SECTION 19**

### EQUAL PROTECTION

If any other provider of cable services or video services (without regard to the technology used to deliver such services) is lawfully authorized by the County or by any other State or federal governmental entity to provide such services using facilities located wholly or partly in the public rights-of-way of the County, the County shall within thirty (30) days of a written request from Franchisee, modify this Franchise to insure that the obligations applicable to Franchisee are no more burdensome than those imposed on the new competing provider. If the County fails to make modifications consistent with this requirement, Franchisee's Franchise shall be deemed so modified thirty (30) days after the Franchisee's initial written notice. As an alternative to the Franchise modification request, the Franchisee shall have the right and may choose to have this Franchise with the County be deemed expired thirty (30) days after written notice to the County. Nothing in this Franchise shall impair the right of the Franchisee to terminate this Franchise and, at Franchisee's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity. Nothing in this Section 19 shall be deemed a waiver of any remedies available to Franchisee under federal, state or municipal law, including but not limited to Section 625 of the Cable Act, 47 U.S.C. §545.

## **SECTION 20**

### NOTICES TO FRANCHISEE

At any time the County Administrator, members of the Board, or a resident of the County brings an issue regarding this Franchise, agreements or applications thereunder, or the activities of the Franchisee to a meeting or work session of the Board, the County Administrator will notify Franchisee. Such notification shall take place at least ten (10) days prior to the meeting.

Notifications pursuant to this Franchise Agreement shall be addressed as follows:

Notices to Franchisee:

*With a copy to:*

Charter Communications  
ATTN: Director, Government Affairs  
3140 West Arrowood Road  
Charlotte, NC 28273

Charter Communications  
ATTN: VP, Government Affairs  
12405 Powerscourt Drive  
St. Louis, MO 63131

Notices to County:

County Administrator  
Buchanan County  
P.O. Box 950  
Grundy, VA 24614

The County and the Franchisee may designate such other address or addresses from time to time by giving notice to the other. Best efforts shall be made to provide such notice no less than thirty (30) days in advance of the effective date of the new address(es).

**SECTION 21**

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Franchise is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holdings shall not affect the validity of the remaining portions thereof.

**SECTION 22**

ACCEPTANCE

Upon approval by the Board of Supervisors and acceptance by Franchisee, as signified by certification by its properly authorized representative, this Franchise shall be effective as of the date of acceptance by Franchisee recorded on the signature page of this Franchise. This Agreement may be signed in duplicate original copies, one of which shall be filed with the County Attorney and the other maintained by Franchisee.

Considered and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

COUNTY OF BUCHANAN, VIRGINIA

Signature: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Buchanan County Administrator

COUNTY OF BUCHANAN, VIRGINIA

\_\_\_\_\_

Name/Title: \_\_\_\_\_

Chairman of the Buchanan County Board of Supervisors

\_\_\_\_\_ 000 \_\_\_\_\_

**IN RE: CONTINUED PUBLIC HEARING – 10:20 A.M. - TO HEAR PUBLIC COMMENTS REGARDING THE PROPOSED ADOPTION OF A REVISED ORDINANCE ENTITLED: “BUCHANAN COUNTY CABLE TELEVISION SYSTEM FRANCHISE ORDINANCE” CHAPTER 28 OF THE BUCHANAN COUNTY CODE**

J. Carroll Branham, Chairman opened the public hearing for comments.

L. Lee Moise, County Attorney stated there is two ways for a Cable Company to obtain a franchise : (1) by the negotiation of a franchise agreement or (2) if a franchise agreement is not negotiated with the cable companies and the Cable Company can elect to operate according to the county’s franchise ordinance.

I took a model ordinance and made changes, stated Mr. Moise. The proposed Buchanan County Cable Television Franchise Ordinance will be in place if adopted and if it is ever needed. It may never be used, but it's there if it's needed.

After a general discussion by the board upon motion by Craig Stiltner seconded by William P. Harris and with a roll call vote of seven (7) yeas, Craig Stiltner, William P. Harris, J. Carroll Branham, Earl Scott, Harold H. Fuller, G. Roger Rife, Trey Adkins and zero (0) nays, this board did hereby approve to close the public hearing.

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**IN RE: CONSIDER ADOPTING THE REVISED ORDINANCE ENTITLED:  
"BUCHANAN COUNTY CABLE TELEVISION SYSTEM FRANCHISE  
ORDINANCE" CHAPTER 28 OF THE BUCHANAN COUNTY CODE**

After a general discussion by the board upon motion by Trey Adkins seconded by William P. Harris with a roll call vote of seven (7) yeas, Craig Stiltner, William P. Harris, J. Carroll Branham, Earl Scott, Harold H. Fuller, G. Roger Rife, Trey Adkins and zero (0) nays, this board did hereby adopt the following Revised Ordinance entitled: "Buchanan County Cable Television System Franchise Ordinance" Chapter 28 of the Buchanan County Code:

**Chapter 28 - CABLE TELEVISION SYSTEM FRANCHISE**

**ARTICLE I. - GENERAL PROVISIONS**

Sec. 28-1. - Applicability, scope of franchise, and applicable law.

(a) This chapter establishes the criteria, procedures and standards by which the county will grant and enforce an ordinance cable franchise to a provider of cable services pursuant to § 15.2-2108.19 et seq. of the Code of Virginia as an alternative to a negotiated cable franchise pursuant to § 15.2-2108.20 of the Code of Virginia. The county, on request by an applicant, will continue to grant a negotiated cable franchise in accordance with Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 521 et seq., and as provided by § 15.2-2108.20 of the Code of Virginia. The ability to seek an ordinance cable franchise under this chapter shall be available to:

- (1) A cable operator with previous consent to use the public rights-of-way to provide cable services whose negotiated franchise with the county is up for renewal;
- (2) A certificated provider of telecommunications services with previous consent to use the public rights-of-way in the county through a franchise;
- (3) A certificated provider of telecommunications services that lacked previous consent to provide cable service in the county but provided telecommunications services

over facilities leased from an entity having previous consent to use of the public rights-of-way in the county through a franchise; and

- (4) A cable operator with previous consent to use the public rights-of-way to provide cable service in the county through a negotiated franchise agreement that chooses to opt into the terms of a franchise pursuant to this chapter.
- (b) Ordinance cable franchises shall be nonexclusive franchises that authorize the franchisee to construct and operate a cable system in the public rights-of-way, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in any public right-of-way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the cable system and to provide such cable services over the cable system as may be lawfully allowed. The ordinance cable franchise shall neither authorize the franchisee to use the public right-of-way for purposes of providing any service other than cable service nor prohibit the franchisee from doing so.
- (c) Incorporation of Amendments to State Code, Federal Law and Regulations. Sections 15.2-2108.19 through 15.2-2108.31 of the Code of the Virginia, 1950, as amended, and all of the provisions and standards referenced therein, are hereby adopted and incorporated as fully as if set out at length herein. All future amendments to such sections and provisions are hereby automatically incorporated into this chapter.

**State Law reference**— Similar provisions, Code of Virginia, §§ 15.2-2108.19, et seq.

Sec. 28-2. - Definitions.

All terms used in this chapter, unless otherwise defined herein, shall have the same meaning as set forth in Sections 15.2-2108.19 et seq. of the Code of Virginia, and if not defined therein, then as set forth in Title VI of the Communications Act of 1934, 47 U.S.C. § 521 et seq., and if not defined therein, their common and ordinary meaning. In addition, references in this chapter to any federal or state law shall include amendments thereto as are enacted from time-to-time.

*Act* means the Communications Act of 1934.

*Affiliate, in relation to any person,* means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

*Basic service tier* means 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.



*Board* means the Board of Supervisors of the County of Buchanan, Virginia.

*Cable administrator* means the county administrator for the County of Buchanan, Virginia, who is hereby designated as the person responsible for administration of the ordinance cable franchise for the county.

*Cable operator* means 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. Cable operator does not include a provider of wireless or direct-to-home satellite transmission service.

*Cable service* means 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).

*Cable system or cable television system* means 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 rights-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 U.S.C. § 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) any portion of a system that serves fewer than 50 subscribers in the county, where such portion is a part of a larger system franchised in an adjacent county; 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.

*Certificated provider of telecommunications services* means a person holding a certificate issued by the state corporation commission to provide local exchange telephone service.

*County* means the County of Buchanan, Virginia, a political subdivision of the Commonwealth of Virginia.

*Franchise* means an initial authorization, or renewal thereof, issued by the county, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction or operation of a cable system, a telecommunications system, or other facility in the public rights-of-way. A negotiated cable franchise is granted by a county after negotiation with an applicant pursuant to Va. Code § 15.2-2108.20.

*Franchisee* means a person that has been granted a cable television franchise by the county pursuant to this chapter or any predecessor ordinance or franchise agreement.

*Force majeure* means an event or events reasonably beyond the ability of cable operator to anticipate and control. "Force majeure" includes, but is not limited to, acts of God, incidences of terrorism, war or riots, labor strikes or civil disturbances, floods, earthquakes, fire, explosions, epidemics, hurricanes, tornadoes, governmental actions and restrictions, work delays caused by waiting for utility providers to service or monitor or provide access to utility poles to which cable operator's facilities are attached or to be attached or conduits in which cable operator's facilities are located or to be located, and unavailability of materials or qualified labor to perform the work necessary.

*Gross revenue* means all revenue, as determined in accordance with generally accepted accounting principles, that is actually received by the cable operator and derived from the operation of the cable system to provide cable services in the franchise area; however, in an ordinance cable franchise "gross revenue" shall not include: (i) refunds or rebates made to subscribers or other third parties; (ii) any revenue which is received from the sale of merchandise over home shopping channels carried on the cable system, but not including revenue received from home shopping channels for the use of the cable service to sell merchandise; (iii) any tax, fee, or charge collected by the cable operator and remitted to a governmental entity or its agent or designee, including without limitation a local public access or education group; (iv) program launch fees; (v) directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing; (vi) a sale of cable service for resale or for use as a component part of or for the integration into cable services to be resold in the ordinary course of business, when the reseller is required to pay or collect franchise fees or similar fees on the resale of the cable service; (vii) revenues received by any affiliate or any other person in exchange for supplying goods or services used by the cable operator to provide cable service; and (viii) revenue derived from services classified as noncable services under federal law, including, without limitation, revenue derived from telecommunications services and information services, and any other revenues attributed by the cable operator to noncable services in

accordance with rules, regulations, standards, or orders of the Federal Communications Commission.

*Interactive on-demand services* means 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.

*Person* means an individual, partnership, association, joint stock company, organization, corporation, or any other legal entity, but such term does not include the county.

*Public rights-of-way* means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, or similar property in which the county or the Commonwealth of Virginia now or hereafter holds any property interest, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining cable facilities. No reference herein, or in any franchise, to a "public rights-of-way" shall be deemed to be a representation or guarantee by the county that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a franchisee shall be deemed to gain only those rights to use as are properly in the county and as the county may have the undisputed right and power to give.

*Transfer* means any transaction in which (i) an ownership or other interest in the cable operator 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 cable operator is transferred; or (ii) the rights and obligations held by the cable operator under the cable franchise granted under this article 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 cable franchise shall not include (a) transfer of an ownership or other interest in the cable operator to the parent of the cable operator or to another affiliate of the cable operator; (b) transfer of an interest in the cable franchise granted under this article or the rights held by the cable operator under the cable franchise granted under this article to the parent of the cable operator or to another affiliate of the cable operator; (c) any action that is the result of a merger of the parent of the cable operator; (d) any action that is the result of a merger of another affiliate of the cable operator; or (e) a transfer in trust, by mortgage, or by assignment of any rights, title, or interest of the cable operator in the cable franchise or the system used to provide cable in order to secure indebtedness.

*VDOT* means the Virginia Department of Transportation.

*Video programming* means programming provided by, or generally considered comparable to, programming provided by a television broadcast station.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.19.

Sec. 28-3. - Procedures to renew or obtain a cable franchise.

- (a) *Renewal.* A franchisee electing to renew its negotiated cable franchise shall do so (i) pursuant to the renewal procedures in 47 U.S.C. § 546, or (ii) by providing notice to the cable administrator that it will opt into an ordinance cable franchise pursuant to this chapter along with the application materials listed in this section. A franchisee may file notification that its cable franchise will be renewed by an ordinance cable franchise one year in advance of the expiration date of its existing franchise.
- (b) *Initial franchise application.* In order to obtain a cable franchise, an applicant shall file with the cable administrator a written request for a franchise along with the application materials required by this section.
- (c) *Application materials.* Any request to obtain an ordinance cable franchise or to renew a negotiated cable franchise shall include the following materials:
  - (1) Applicant's complete business name, as registered with the Virginia State Corporation Commission, when applicable;
  - (2) Business address of the applicant;
  - (3) Name and contact information of a designated contact for the applicant;
  - (4) Name and contact information of the registered agent for the applicant, when applicable;
  - (5) The local, toll-free, or collect telephone access line that will be available to provide customer service to its subscribers;
  - (6) A map that shows the service area in which the applicant intends to provide cable service in the county;
  - (7) A map that shows the area in the county in which the applicant has its telephone facilities, if any;
  - (8) A list of services and channels offered and subscription rates within the county; and
  - (9) Current certificate of insurance in the amounts required by this chapter.
- (d) Upon receipt of all necessary application materials, the board may, by resolution, grant to the applicant an ordinance cable franchise after notice and public hearing.

**State Law reference**— Similar provisions, Code of Virginia, §§ 15.2-2108.30, 15.2-2108.21.

Sec. 28-4. - Term of franchise.

All ordinance cable franchises granted pursuant to this chapter shall have a term of 15 years.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.21.

Sec. 28-5. - Town ordinances.

If the governing body of any town within the county adopts an ordinance pursuant to the provisions of §§ 15.2-2108.19 et seq. of the Code of Virginia, such town shall not be subject to the terms of this chapter.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.21(G).

Secs. 28-6—19-20. - Reserved.

## ARTICLE II. - SUBSTANTIVE PROVISIONS

Sec. 28-21. - PEG channels and fees.

(a) *PEG channels.*

- (1) Upon written request made by the county administrator on behalf of the county and in accordance with applicable rules and regulations, the franchisee shall provide up to three public, educational, and governmental access ("PEG") channels dedicated solely to the county or its designee and not shared with any other jurisdiction unless the county, in writing, agrees otherwise.
- (2) The county may, after a public hearing and upon a finding that the existing PEG channel is substantially utilized within the meaning of Section 15.2-2108.22(1) of the Code of Virginia, require by ordinance that all county franchisees provide additional PEG channels, up to a maximum of three additional PEG channels, provided that the total number of PEG channels in the county, including the additional PEG channels, shall not exceed seven.
- (3) Any additional PEG channel provided pursuant to subdivision (2) of this subsection (a) that is not utilized for at least eight hours a day by the county need no longer be made available to the county by a franchisee, but may be programmed at the franchisee's discretion. At such time as the county can certify to the franchisee a schedule for at least eight hours of daily programming for a period of three months, the franchisee shall restore any reallocated additional PEG channel.
- (4) All PEG channels shall be carried on a franchisee's basic tier.
- (5) The county or its designee shall be responsible for management, operation, and programming of the PEG access channels.

- (6) A franchisee shall, as necessary and reasonably possible, interconnect with one or more other franchisees in the county or directly connect to PEG insertion points to ensure the carriage of all required PEG access channels.
  - (7) Franchisee shall ensure that all PEG access channel signals carried on its system, regardless of the method used to acquire the PEG channels, comply with all applicable FCC signal quality and technical standards for all classes of signals. The technical and signal quality of all PEG access channel signals shall be preserved.
- (b) *PEG fees.*
- (1) As of July 1, 2012, for an effective date no earlier than January 1, 2013, if the county is operating a PEG facility in accordance with this chapter, the county may negotiate with all franchisees to set a recurring fee to support the reasonable and necessary capital costs of PEG facilities, including institutional networks, that shall be imposed on all franchisees such that the fee applies equally, on a gross revenue percentage or per-subscriber basis, to all franchisees in the county.
  - (2) If the county and the franchisees cannot agree on a recurring PEG capital cost fee through negotiation under subdivision (1) of this subsection (b), the county, by ordinance adopted after a public hearing, may impose a recurring fee, calculated on a per subscriber or percentage of gross revenue basis, to support the reasonable and necessary capital costs of PEG access facilities, including institutional networks, to be effective after January 1, 2013.
  - (3) The PEG capital cost fee, if imposed, shall not constitute nor be a part of any franchise fee, and all such costs fall within one or more of the exceptions listed in 47 U.S.C. § 542.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.22.

Sec. 28-22. - Customer service standards.

- (a) The franchisee shall comply in all respects with the customer service requirements established by the Federal Communications Commission and set forth in Title 47, Part 76 of the Code of Federal Regulations. Accordingly, the franchisee shall be subject to the following customer service standards consistent with 47 C.F.R. §§ 76.309, 76.1602, 76.1603, 76.1618 and 76.1619:
  - (1) *Customer service telephone access line.* A franchisee shall maintain a local, toll-free, or collect telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

- a. Trained representatives will be available to respond to customer telephone inquiries during normal business hours.
  - b. After normal business hours, the access line may be answered by a service or automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained representative on the next business day.
- (2) *Installations, outages, and service calls.* Under normal operating conditions, each of the following four standards will be met no less than 95 percent of the time as measured on a quarterly basis.
- a. Standard installations will be performed within seven business days after an order has been placed. "Standard" installations are those that are within 125 feet of the existing distribution system.
  - b. Excluding conditions beyond the control of the franchisee, the franchisee will begin working on service interruptions promptly and in no event later than 24 hours after the interruption becomes known. The franchisee must begin actions to correct other service problems the next business day after notification of the service problem.
  - c. The "appointment window" alternatives for installations, service calls and other installation activities will either be at a specific time or, at maximum, a four-hour time block during normal business hours. A franchisee may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.
  - d. A franchisee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If a franchisee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled as necessary, at a time that is convenient for the customer.
- (3) A franchisee shall accurately collect and maintain data to measure its compliance with subparagraph (2) and shall provide to the county, within 30 days of receipt of written request, such data reports for county review. Data reports shall be maintained for a minimum of three years prior to destruction.
- (b) A franchisee shall meet the following communications standards for its subscribers.

- (1) A franchisee shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:
  - i. Products and services offered;
  - ii. Notice of availability of basic tier service along with monthly cost of such service and a list of all services included in the basic service tier;
  - iii. Prices and options for programming services and conditions of subscription to programming and other services;
  - iv. Installation and service maintenance policies;
  - v. Instructions on how to use the cable service;
  - vi. Channel positions of programming carried on the system;
  - vii. Refund policy; and
  - viii. Billing and complaint procedures, including the franchisee's office hours, address and telephone number of the local cable office.
- (2) A franchisee shall notify subscribers in writing of any changes in rates, programming services or channel positions as soon as reasonably possible. Notice should be given to subscribers a minimum of 30 days in advance of such change if the change is within the control of the franchisee.

(c) *Billing.*

- (1) A franchisee's bills to its subscribers shall be clear, concise, and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates, and credits.
- (2) Bills shall show clearly and predominately a local or toll-free telephone number for customers to use to contact the franchisee's customer service department.
- (3) In case of a billing dispute, a franchisee must respond to a written complaint from a subscriber within 30 days.
- (4) Refund checks will be issued promptly, but not later than either:
  - a. The customer's next billing cycle following resolution of the request, or 30 days, whichever is earlier, or
  - b. The return of the equipment supplied by a franchisee if service is terminated.



- (5) Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.
- (6) A franchisee shall maintain and provide to the county, within 30 days of receipt of written request, a log of all subscriber complaints indicating the action taken by the franchisee. Such logs shall be maintained for a minimum period of three years prior to destruction.

**State Law reference**— Similar provisions, Code of Virginia, §§ 15.2-2108.22(4), 15.2-2108.25.

Sec. 28-23. - Service buildout requirements.

- (a) Within no less than three years of the date of the grant of the franchise, a franchisee shall make cable service available to all of the occupied residential dwelling units in the initial service area selected by the franchisee pursuant to subsection 19-3(c) hereof.
- (b) Within seven years of the date of the grant of the franchise, a franchisee shall make cable service available to no less than 65 percent of the residential dwelling units throughout the area in the county in which the franchisee has telephone facilities to the extent permitted by state law.
- (c) Notwithstanding subparagraphs (a) and (b) above, a franchisee shall not be required to make cable service available:
  - (1) For periods of force majeure;
  - (2) For periods of delay caused by the county;
  - (3) For periods of delay resulting from the franchisee's inability to obtain authority to access rights-of-way in the service area;
  - (4) In areas where developments or buildings are subject to claimed exclusive arrangements;
  - (5) In developments or buildings that the franchisee cannot access under industry standard terms and conditions after good faith negotiation;
  - (6) In developments or buildings to which the franchisee is unable to provide cable service for technical reasons or that requires facilities that are not available or cannot be deployed on a commercially reasonable basis;
  - (7) In areas where it is not technically feasible to provide cable service due to the technology used by the franchisee to provide cable service;

- (8) In areas where the average occupied residential household density is less than 30 occupied residential dwelling units per mile as measured in strand footage from the nearest technically feasible point on the franchisee's active cable; or
  - (9) When the franchisee's prior service, payment, or theft of service history with a subscriber or potential subscriber has been unfavorable.
- (d) Should, through new construction, an area within a franchisee's service area meet the density requirement set forth in subparagraph (c)(8), the franchisee shall, subject to the exclusions set forth in subparagraphs (c)(1)—(7) and (9), provide cable service to such area within six months of receiving notice from the county that the density requirements have been met.
- (e) During the 12-month period commencing after the seventh-year anniversary date of the grant of a franchise, the county may, by ordinance adopted after a public hearing in which the county specifically finds that such a requirement is necessary to promote competition in cable services within the county, require a franchisee to make service available to 80 percent of the residential dwelling units in the area in the county in which the franchisee has telephone facilities within no less than ten years of the date of the grant of the franchisee's franchise, subject to the exclusions set forth in subparagraphs (c)(1)—(9) above. If the franchisee notifies the county that it is unwilling to accept this additional service availability requirement, the county may, after notice and public hearing, terminate the franchisee's ordinance cable franchise.
- (f) A franchisee shall file with the county a certificate at its third and seventh, and if applicable, tenth, anniversary dates certifying its compliance with the foregoing service requirements.
- (g) A franchisee may elect to provide cable service to areas not meeting the density and distance standards set forth herein. The franchisee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop in or line extension in excess of the standards stated herein. Any such additional charge shall be computed on a time plus materials basis to be calculated on that portion of the installation that exceeds the standards set forth herein. Such additional charge shall be paid by the developer or landowner or customer requesting cable service in an area that does not meet the density and distance standards.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.22.

Sec. 28-24. - Rights-of-way management.

- (a) All excavation and reconstruction work by a franchisee in the public rights-of-way must be in compliance with the requirements of applicable VDOT standards. It shall be the responsibility of a franchisee to obtain any required permits, to review all applicable excavation, reconstruction, restoration, repair and permitting requirements, and to become familiar with such requirements before beginning any excavation, reconstruction, restoration or repair work in the public rights-of-way or private property.
- (b) Any equipment or facilities installed by a franchisee in the public rights-of-way shall be installed, located, erected, constructed, reconstructed, replaced, restored, removed, repaired, maintained and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not (1) to endanger or interfere in any manner with improvements the county or VDOT may deem appropriate to make; or (2) to interfere with the rights of any private property owner; or (3) to hinder or obstruct pedestrian or vehicular traffic.
- (c) Whenever the county or VDOT shall determine that it is necessary in connection with the repair, relocation, or improvement of the public rights-of-way, the county or VDOT may require by written notification that any properties or facilities of the franchisee be removed or relocated. Within 60 days after receipt of notification, unless the county or VDOT extends such period for good cause shown, the franchisee shall remove or relocate its facilities to such place and under such terms and conditions as specified by the county or VDOT. The franchisee shall bear all expenses associated with the removal and relocation except that the county or VDOT will issue, without charge to the franchisee, whatever local permits are required for the relocation of franchisee's facilities. If the franchisee does not complete its removal or relocation within 60 days or such other period as authorized by the county or VDOT, the county or VDOT may take such actions as necessary to effect such removal or relocation at the franchisee's expense.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.23.

Sec. 28-25. - Reserved.

Sec. 28-26. - Service to public locations.

A franchisee shall provide, without charge, within the area in the county actually served by its cable system, one cable service outlet activated for basic cable service to each fire station, public school, police station, public library, and any other governmental building.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.22.

Sec. 28-27. - Emergency powers and authority.

- (a) *Emergency powers.* In the event of an emergency, or where a franchisee's cable system creates or is contributing to an imminent danger to health, safety, or property, or an unauthorized use of property, the franchisee shall remove or relocate any or all parts of franchisee's cable system at the request of the county. If the franchisee fails to comply with the county's request, the county may remove or relocate any or all parts of the franchisee's cable system upon reasonable notice to the franchisee and franchisee shall be responsible to reimburse the county the expense of such removal or relocation.
- (b) *Emergency alert system.*
- (1) The franchisee shall comply with the emergency alert system (EAS) requirements of the FCC in order that emergency messages may be distributed over the system. A franchisee shall install and thereafter maintain an EAS for use by the county.
  - (2) The EAS shall at all times be operated in accordance with federal requirements and other applicable law. In the event of an emergency, as determined by the designated county official or other official designated by any approved state or local EAS plan, and subject to applicable federal and Virginia law requirements, the EAS shall be remotely activated by telephone and shall allow a representative from the county or other official designated by any approved state or local EAS plan, in the event of an emergency or for reasonable testing, to override the audio and video on all channels on the franchisee's cable system without the assistance of the franchisee.
  - (3) The county or other designated body responsible under any approved state or local EAS plan shall provide reasonable notice to the franchisee prior to any test of the EAS. The franchisee shall cooperate with the county or other designated body responsible under any approved state or local EAS plan in any such test.
  - (4) A franchisee shall maintain the EAS and shall periodically upgrade the EAS at the franchisee's sole expense to ensure that the EAS technology remains consistent and compatible with prevailing technology and applicable law.

Sec. 28-28. - Redlining, reporting and inspection.

A franchisee shall assure that access to cable services is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides. The county shall have the right to monitor and inspect the deployment of cable services.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.21.

Secs. 28-29, 28-30. - Reserved.

### ARTICLE III. - COMMUNICATIONS TAX AND FRANCHISE FEES

#### Sec. 28-31. - Communications Act 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 from time to time, and, with the exception of required compliance with the Virginia Communications Sales and Use Tax, the provisions of this article shall not have any effect, for so long as the Communications Sales and Use Tax or a successor state or local tax that constitute a franchise fee for purposes of 47 U.S.C. § 641, as amended, is imposed on the sale of cable services by the franchisee to subscribers in the county.

#### Sec. 28-32. - Payment of franchise fee to county.

In the event that the Communications Sales and Use 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. § 641, as amended, franchisee shall pay to the county a franchise fee of five percent of annual gross revenue, beginning on the effective date of the repeal of such tax (the "repeal date"). Beginning on the repeal date, the terms of sections 28-32 through 28-35 of this chapter shall take effect. In accordance with Title VI of the Communications Act, the 12-month period applicable under the franchise for the computation of the franchise fee shall be a calendar year. Such payments shall be made no later than 30 days following the end of each calendar quarter. Should franchisee submit an incorrect amount, franchisee shall be allowed to add or subtract that amount in a subsequent quarter, but no later than 90 days following the close of the calendar year for which such amounts were applicable; such correction shall be documented in the supporting information required under section 28-33.

#### Sec. 28-33. - Supporting information.

Each franchise fee payment shall be accompanied by a brief report prepared by a representative of franchisee showing the basis for the computation, and a breakdown by major revenue categories (such as basic service, premium service, etc.). The county shall have the right to reasonably request further supporting information for each franchise fee payment, subject to the proprietary information provision of section 28-43.

#### Sec. 28-34. - Limitation on franchise fee actions.

The period of limitation for recovery of any franchise fee payable hereunder shall be five years from the date on which payment by franchisee is due.

#### Sec. 28-35. - Bundled services.

This section 28-35 shall apply only if state or federal law does not otherwise address the computation of franchise fees or gross revenues in connection with the provision of cable service as part of a bundle or package with any non-cable service. If the franchisee bundles cable service with non-cable service, the franchisee agrees that it will not intentionally or unlawfully allocate such revenue for the purpose of evading the franchise fee payments under this chapter. In the event that the franchisee or any affiliate shall bundle, tie, or combine cable service (which are subject to the franchise fee) with non-cable services (which are not subject to the franchise fee), so that subscribers pay a single fee for more than one class of service or receive a discount on cable services, a pro rata share of the revenue received for the bundled, tied, or combined services shall, to the extent reasonable, be allocated to gross revenues for purposes of computing the franchise fee. To the extent there are published charges and it is reasonable, the pro rata share shall be computed on the basis of the published charge for each of the bundled, tied, or combined services, when purchased separately. However, the parties agree that tariffed telecommunications services that cannot be discounted under state or federal law or regulations are excluded from the bundled allocation obligations in this section.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.22.

Secs. 28-36—28-40. - Reserved.

#### ARTICLE IV. - PROCEDURES AND ENFORCEMENT

Sec. 28-41. - Notice and hearing procedures.

- (a) In the event that the cable administrator believes that a franchisee has not complied with the requirements of this chapter, Article 1.2 ( § 15.2-2108 et seq.) of Chapter 121 of Title 15.2 of the Virginia Code, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulations promulgated thereunder, the following procedures shall apply:
- (1) The cable administrator shall informally discuss the alleged noncompliance with the franchisee.
  - (2) In the event that the informal discussion does not resolve the matter, the cable administrator shall notify the franchisee in writing of the exact nature of the alleged noncompliance.
  - (3) Within 15 days from receipt of the cable administrator's written notice, the franchisee shall:

- a. File a written statement with the cable administrator contesting, in whole or in part, the alleged noncompliance; or
  - b. Cure the alleged noncompliance and file written notification to the cable administrator of the cure; or
  - c. In the event the nature of the noncompliance prevents the franchisee from curing the noncompliance within 15 days, the franchisee shall initiate reasonable steps to remedy the noncompliance and file with the cable administrator a written statement setting forth the steps being taken and the projected date that they will be completed. The franchisee's cure shall be completed within 30 days of the projected date.
- (b) In the event the franchisee fails to cure the default within 15 days, fails to file a timely written response, or fails to timely complete the remediation, the cable administrator, if it wishes to continue its investigation into the default, shall schedule a public hearing before the board. The franchisee shall be notified in writing at least 30 business days prior to the public hearing and shall be provided an opportunity to be heard at the public hearing. The notice shall specify the time, place, and purpose of the public hearing. The county shall: (1) provide public notice of the hearing in compliance with Virginia law; (2) hear any person interested in the violation under review; and (3) provide the franchisee with an opportunity to be heard.
- (c) The board shall, within a reasonable time after the closure of the public hearing, issue findings and conclusions in writing, setting forth the basis for the findings, the proposed cure plan and time line for curing the violation, if the violation can be cured, and the penalties, damages and applicable interest, if any, owed.
- (d) Subject to applicable federal and Virginia law and the provisions of this chapter, if the board determines pursuant to a public hearing that a franchisee is in violation of any provision of this chapter, Article 1.2 (§§ 15.2-2108 et seq.) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder, the county may apply one or a combination of the following remedies: (i) seek specific performance or other equitable relief; (ii) commence an action at law; and/or (iii) apply liquidated damages in accordance with section 28-42.
- (e) The cable administrator shall conduct the hearings and issue findings and conclusions under this subsection. The franchisee may appeal the determination of the cable administrator to the board. Such an appeal shall be heard at a lawfully noticed public hearing.

- (f) In addition to all other rights and powers reserved or pertaining to the county, the county reserves, as an additional and as a separate and distinct remedy, the right to revoke this franchise and all rights and privileges of franchisee hereunder in any of the following enumerated events or for any of the following reasons:
- (1) Franchisee shall, by act or omission, violate any material or substantial term or condition of this franchise agreement and shall within 30 days following written notice by the county fail to effect such compliance or has failed to begin to take such reasonable steps as necessary to bring the franchisee into such compliance; or
  - (2) Franchisee becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt, or all or part of franchisee's facilities should be sold under an instrument to secure a debt and are not redeemed by franchisee within 30 days from said sale; or
  - (3) Franchisee fails to restore service following 96 consecutive hours of interrupted service, except when an act of God, disaster, or other action beyond the control of the franchisee caused such service interruption; or
  - (4) Franchisee attempts to or does practice any fraud or deceit or pattern of material misrepresentation in its conduct or relations with the county under this franchise.
- (g) No such revocation shall be effective unless or until the board shall have adopted a resolution setting forth the cause and reason for the revocation and the effective date thereof, which resolution shall not be adopted without 30 days' prior written notice thereof to franchisee and an opportunity for the franchisee to be heard upon the proposed adoption of said resolution. Franchisee shall furnish to the county a written statement at least ten days prior to the date on which the board will convene to consider such proposed resolution setting out its position relative to the cause(s) of such revocation. In the event the revocation as proposed in said resolution depends upon findings of fact, such findings of fact as made by the board shall be in writing, after the hearing provided for, if requested by franchisee.
- (h) In the event a franchisee submits notification of unwillingness to comply with any additional service availability requirements as contained in section 19-23 of this chapter, or fails to comply with these additional service requirements, the franchisee's franchise may be terminated after written notice and a public hearing.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.22.

Sec. 28-42. - Liquidated damages.



- (a) If, pursuant to the public hearing required by section 28-41, the county determines that a franchisee has failed materially to comply with this Chapter, Article 1.2 (§§ 15.2108 et seq.) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder, the county may impose liquidated damages as provided in this subsection. Because a franchisee's failure to comply will result in injury to the county and subscribers and because it will be difficult to estimate the extent of such injury, the county and, by its acceptance of an ordinance franchise pursuant to this chapter, a franchisee agrees to the following liquidated damages for the following material violations, which represent both parties' best estimate of the damages resulting from the specified non-compliance. The franchisee shall not be charged with multiple violations for a single act or event affecting a single subscriber or for a single act or event affecting multiple subscribers on the same day.
- (1) For failure to comply with PEG channels: \$50.00/day for each violation for each day the violation continues after written notice has been provided to the franchisee by the county of such violation.
  - (2) For failure to supply complete and accurate information, reports and filings required by the county as required by this chapter: \$100.00/day for each unrelated material violation for each day the violation continues after written notice and an applicable cure period has been provided to the franchisee by the county of such violation.
  - (3) For failure to comply with any the customer service standard set forth in section 28-22 of this chapter: \$50.00/day for each violation for each day the violation continues.
  - (4) For failure to pay in full or in timely fashion any fee to support PEG access pursuant to section 19-21 of this chapter: \$50.00/day for each violation for each day the violation continues, in addition to the balance of such fees owed and interest.
- (b) The county may reduce or waive any of the above liquidated damages if it determines, in its discretion, that such waiver is in the public interest.
- (c) If a court of competent and binding jurisdiction determines that liquidated damages cannot be imposed by this chapter rather than by contract, the foregoing liquidated damages shall be construed to be penalties to the full extent allowed and contemplated by Section 15.2-2108.22(6) of the Code of Virginia.
- (d) *Interest on unpaid amounts.* Interest on any and all unpaid amounts owed by a franchisee to the county shall accrue at the legal rates set forth in Virginia Code § 6.1-330.53.

- (e) *Cure*. Any violation or noncompliance with this chapter, Article 1.2 (§§ 15.2-2108 et seq.) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulations promulgated thereunder, shall not be deemed cured until all penalties, damages and interest, if any, that are owed, are paid.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.22.

Sec. 28-43. - Auditing.

- (a) Once every 24 months and upon 30 days' written notice to the franchisee, the county or its agent shall have the right to: (1) inspect and copy at any time during normal business hours at such location as the county may designate, all books and records of a franchisee and any other person who is a "cable operator" of the franchisee's cable system reasonably necessary to audit and confirm the franchisee's accurate payment of any fees required by this chapter; and (2) audit and recompute any amounts determined to be payable under this chapter or a franchise agreement. Such records shall include, but are not limited to: receipts, financial and accounting records, contracts, computer records, codes, programs and disks or other storage media or other material that the county reasonably deems necessary in order to monitor compliance under this section. The franchisee may request that proprietary and confidential information be kept from public disclosure, but only as permitted by the Virginia Freedom of Information Act.
- (b) The county's audit expenses shall be borne by the county unless the audit discloses an underpayment of more than three percent of any quarterly payment, but not less than \$5,000.00, in which case the county's out-of-pocket costs of the audit shall be borne by the franchisee as a cost incidental to the enforcement of its franchise. Any additional undisputed amounts due to the county as a result of the audit shall be paid by the franchisee within 30 days following written notice to a franchisee by the county of the underpayment.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.22.

Sec. 28-44. - Itemization.

A franchisee providing cable service may identify as a separate line item on each regular bill of each subscriber (i) the amount of the total bill assessed as a franchise fee, or any equivalent fee, that the franchisee has paid to the county; (ii) the amount of the total bill assessed to satisfy any requirements imposed on the franchisee, including those to support PEG access facilities, including institutional networks; and (iii) the amount of any other fee,

tax, assessment, or charge of any kind imposed by any governmental entity on the transaction between the franchisee and the subscriber.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2018.25.

Sec. 28-45. - Reserved.

Sec. 28-46. - Transfer.

No transfer of any franchise granted under this chapter shall occur without the prior consent of the county, provided that the board shall not unreasonably withhold, delay, or condition such consent. 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 franchise obligations.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.28.

Sec. 28-47. - Surrender.

A franchisee that receives an ordinance cable franchise under this chapter that considers, within three years after the grant of a cable franchise under this chapter, that its provision of cable services within the county is no longer economically feasible, may notify the county in writing and surrender its cable franchise for the entire county without liability to the county (other than for any fees, taxes, or payments owed for the period before the franchisee surrendered the franchise and ceased providing cable service in the county). If a franchisee so surrenders its cable service franchise, it shall not be eligible to obtain a new cable service franchise within the county until after the normal expiration date of the franchise that such franchisee surrendered.

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-2108.29.

Sec. 28-48. - Bonding.

- (a) Within 30 days after the award of a franchise, the franchisee shall deposit with the county a performance bond or an irrevocable letter of credit from a financial institution running to the county in the amount of \$50,000.00, or \$15,000.00 pursuant to the following. Franchisees serving a customer base of 400 or more shall post bond or irrevocable letter of credit in the amount of \$50,000. Franchisees serving a customer base of 399 or fewer shall post bond or irrevocable letter of credit in the amount of \$15,000.00. The bond or letter of credit shall be used to insure the faithful performance by the franchisee of all of the provisions of its franchise and this chapter, Sections 15.2-2108.19 et seq. of the Code of Virginia, and the mandatory requirements of 47 U.S.C. §§

521-573 and any rules promulgated thereunder, and compliance with all lawful orders, permits, and directions of any agency, commission, board, department, division, or office of the county or VDOT having jurisdiction over the acts of the franchisee, or defaults under a franchise or the payment by a franchisee of any penalties, liquidated damages, claims, liens, and taxes due the county which arise by reason of the construction, operation, or maintenance of franchisee's cable system in the county, including, including restoration of the public rights-of-way and the cost of removal or abandonment of any property of a cable operator.

- (b) Any bond obtained by a franchisee must be placed with a company which is qualified to write bonds in the Commonwealth of Virginia, such bond shall be subject to the approval of the county attorney and shall contain the following endorsement (or the substantive equivalent of such language as agreed upon by the county):

"It is hereby understood and agreed that this bond may not be cancelled without the consent of the County until sixty (60) days after receipt by the County by registered mail, return receipt requested, of a written notice of intent to cancel or not renew."

- (c) Any letter of credit must be issued by a federally insured commercial lending institution and shall be subject to the approval of the county attorney.
  - (1) The letter of credit may be drawn upon by the county by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the chief executive officer of the county certifying that the franchisee has failed to comply with this chapter after having been given due notice and opportunity to cure the failure to comply. Such certificate shall also state the specific reasons for the failure of compliance, and stating the basis of the amount being drawn.
    - a. The county may withdraw money from the letter of credit or cash security fund in accordance with the procedures set forth in this section.
    - b. The county shall provide the franchisee with written notice informing the franchisee that such amounts are due to the county. The written notice shall describe, in reasonable detail, the reasons for the assessment. The franchisee shall have 30 days subsequent to receipt of the notice within which to cure every failure cited by the county or to notify the county that there is a dispute as to whether franchisee believes such amounts are due the county. Such notice by the franchisee to the county shall specify with particularity the basis of franchisee's belief that such monies are not due the county.

- c. Upon the delivery of the necessary documents to the lending institution, the county has the right to immediate payment from the issuer bank of the amount from the letter of credit necessary to cure the default.
  - d. Any letter of credit shall contain the following endorsement (or the substantive equivalent of such language as agreed upon by the county): "It is hereby understood and agreed that this letter of credit may not be canceled by the issuer bank nor the intention not to renew be stated by the issuer bank until sixty (60) days after receipt by the county, by registered mail, return receipt requested, of a written notice of such intention to cancel or not to renew."
- (d) Any bond or letter of credit shall be recoverable by the county for all damages and costs, whether direct or indirect, resulting from the failure of a franchisee to well and faithfully observe and perform any provision of this chapter.
- (e) The bond or letter of credit shall be maintained at the amount established herein for the entire term of the franchise, even if amounts have to be withdrawn pursuant to this chapter. The franchisee shall promptly replace any amounts withdrawn from the bond or letter of credit.

Sec. 28-49. - Indemnification and insurance.

- (a) The franchisee shall indemnify, hold harmless and defend the county, its officers, employees, and agents (hereinafter referred to as "indemnities"), from and against:
- (1) Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any act or omission of the franchisee, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the franchisee's cable system caused by franchisee, its contractors, subcontractors or agents or the franchisee's failure to comply with any federal, state or local statute, ordinance or regulation.
  - (2) Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which are imposed upon, incurred

by or asserted against the indemnitees by reason of any claim or, lien arising out of work, labor, materials or supplies provided or supplied to the franchisee, its contractors or subcontractors, for the installation, construction, operation or maintenance of the franchisee's cable system in the county.

- (3) Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any financing or securities offering by franchisee or its affiliates for violations of the common law or any laws, statutes or regulations of the Commonwealth of Virginia or of the United States, including those of the Federal Securities and Exchange Commission, whether by the franchisee or otherwise.
- (b) Damages shall include, but not be limited to, penalties arising out of copyright infringements and damages arising out of any failure by the franchisee to secure consents from the owners, authorized distributors or licensees, or programs to be delivered by the franchisee's cable system.
- (c) The franchisee undertakes and assumes for its officers, agents, contractors and subcontractors and employees all risk of dangerous conditions, if any, on or about any county-owned or controlled property, including streets and public rights-of-ways, and the franchisee hereby agrees to indemnify and hold harmless the indemnitees against and from any claim asserted or liability imposed upon the indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the franchisee's cable system or the franchisee's failure to comply with any federal, state or local statute, ordinance or regulation, except for any claim asserted or liability imposed upon the indemnitees that arises or is related to wanton or willful negligence by the indemnitees.
- (d) In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, the franchisee shall, upon notice from any of the indemnitees, and at the franchisee's sole cost and expense, resist and defend the same, provided further, however, that the franchisee shall not admit liability in any such matter on behalf of the indemnitees without the written consent of the county attorney or his or her designee.
- (e) The county shall give the franchisee prompt notice of the making of any written claim or the commencement of any action, suit or other proceeding covered by the provisions of this section.

- (f) Nothing in this chapter or in a franchise is intended to, or shall be construed or applied to, express or imply a waiver by the county of statutory provisions, privileges or immunities of any kind or nature as set forth in the Code of Virginia, including the limits of liability of the county as exists presently or as may be increased from time to time by the legislature. Nothing in a franchise or this chapter shall constitute a waiver of the county's statutory provisions, privileges or immunities, including the county's sovereign immunity, of any kind or nature.
- (g) The franchisee shall maintain, and by its acceptance of a franchise hereunder specifically agrees that it will maintain throughout the term of the franchise, general comprehensive liability insurance insuring the franchisee. All liability insurance shall include an endorsement in a specific form which names as joint and several insured's the county and the county's officials, employees and agents, with respect to all claims arising out of the operation and maintenance of the franchisee's cable system in the county. Liability insurance mentioned herein below shall be in the minimum amounts of:
- (1) \$5,000,000.00 for bodily injury or death to anyone person, within the limit of \$10,000,000 for bodily injury or death resulting from any one accident;
  - (2) \$5,000,000.00 for property damage, including damage to the county's property, from any one accident;
  - (3) \$5,000,000.00 for all other types of liability resulting from any one occurrence;
  - (4) Workers compensation insurance as required by the Commonwealth of Virginia;
  - (5) A franchisee shall carry and maintain in its own name automobile liability insurance with a limit of \$5,000,000.00 for each person and \$5,000,000.00 for each accident for property damage with respect to owned and non-owned automobiles for the operation of which the franchisee is responsible; and
  - (6) Coverage for copyright infringement.
- (h) The inclusion of more than one insured shall not operate to increase the limit of the franchisee's liability, and that insurer waives any right on contribution with insurance which may be available to the county.
- (i) All policies of insurance required by this section shall be placed with companies that are qualified to write insurance in the Commonwealth of Virginia and that maintain throughout the policy term a General Rating of "A-" and a Financial Size Category of "A:X" as determined by Best Insurance Rating Services.
- (j) Certificates of insurance obtained by the franchisee in compliance with this section must be approved by the county attorney, and such insurance policy certificate of insurance

shall be filed and maintained with the office of the county attorney during the term of the franchise. The franchisee shall immediately advise the county attorney of any litigation that may develop that would affect this insurance.

- (k) Should the county find an insurance document to be in non-compliance, then it shall notify the franchisee, and the franchisee shall be obligated to cure the defect.
- (l) Neither the provisions of this section, nor any damages recovered by the county thereunder, shall be construed to nor limit the liability of the franchisee under any franchise issued hereunder or for damages.
- (m) The insurance policies provided for herein shall name the county, its officers, employees and agents as additional insured's, and shall be primary to any insurance or self-insurance carried by the county. The insurance policies required by this section shall be carried and maintained by the franchisee throughout the term of the franchise and such other period of time during which the franchisee operates or is engaged in the removal of its cable system. Each policy shall contain a provision providing that the insurance policy may not be canceled by the surety, nor the intention not to renew be stated by the surety, until 30 days after receipt by the county, by registered mail, of written notice of such intention to cancel or not to renew.
- (n) Nothing in this section shall require a franchisee to indemnify, hold harmless or defend the county, its officials, employees or agents, from any claims or lawsuits arising out of the county's award of a franchise to another person.

Sec. 28-50. - Inspection of facilities.

A franchisee shall comply with all applicable federal, state and local construction and engineering codes and regulations, currently in force or hereafter applicable, to the construction, operation or maintenance of its cable system within the county. The county shall have the right to review a franchisee's construction plans and specifications to assure compliance with the required standards. After construction has been completed, the county shall have the right to inspect all construction or installation work performed pursuant to the franchise and to conduct any tests it deems necessary to ensure compliance with the terms of this chapter and all applicable federal, state and local building and engineering codes. However, the county shall not be required to review or approve construction plans and specifications or to make any inspections. The franchisee shall be solely responsible for taking all steps necessary to assure compliance with applicable standards and to ensure that its cable system is installed in a safe manner and pursuant to the terms of the franchise and applicable law.



This Resolution was adopted by the Buchanan County, Va. Board of Supervisors on the 15<sup>th</sup> day of June, 2017.

\_\_\_\_\_  
Chairman of the  
Buchanan County, Va. Board of Supervisors

Recorded Vote:  
J. Carroll Branham yea  
Trey Adkins yea  
William P. Harris yea  
Harold Fuller yea  
Craig Stiltner yea  
Earl Scott yea  
Roger Rife yea

ATTESTED:

\_\_\_\_\_  
Robert Craig Horn, County Administrator

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**IN RE:            CONSIDER APPROVING THE CONTRACTS WITH K.T. VANDYKE AND QUARTER BOUNCE WITH RUSTY STEEL REGARDING THE 2017 BUCHANAN COUNTY FAIR AND AUTHORIZE THE CHAIRMAN OF THE BUCHANAN COUNTY BOARD OF SUPERVISORS AND COUNTY ADMINISTRATOR FOR BUCHANAN COUNTY, VIRGINIA TO EXECUTE SUCH CONTRACTS ON BEHALF OF BUCHANAN COUNTY WITH THE APPROVAL AS TO FORM BY THE COUNTY ATTORNEY**

After a general discussion by the board upon motion by Earl Scott seconded by William P. Harris and with the following roll call vote of seven (7) yeas, and zero (0) nays, this board did hereby approve the following contracts/receipts with K.T. Vandyke and Quarter Bounce with Rusty Steel regarding the 2017 Buchanan County Fair and authorize the Chairman of the Buchanan County Board of Supervisors and County Administrator for Buchanan County, Virginia to execute such Contracts on behalf of Buchanan County with the approval as to form by the County Attorney.

**CONTRACT/RECEIPT**

This contract made and entered into this 15<sup>th</sup> day of June, 2017, by and between **Quarter Bounce with Rusty Steel** (the “Entertainer), whose mailing address is Post Office Box 8, Blountville, Tennessee 37617 and **Buchanan County** (“County”), a political subdivision of the Commonwealth of Virginia, c/o Robert Craig Horn, County Administrator, P.O. Box 950, Grundy, Virginia 24614 (the “Buyer”).

**WITNESSETH:**

**WHEREAS**, the County wishes to conduct the Buchanan County Fair (“Festival”) at Poplar Gap Park, Virginia on Friday, June 23<sup>rd</sup>, 2017, with entertainment beginning at 5:30 p.m. and ending at 6:40 p.m.; and

**WHEREAS**, the Entertainer wishes to provide musical entertainment at said Festival; and

**WHEREAS**, the County wishes to engage the Entertainer to provide such musical entertainment at the Festival; and

**WHEREAS**, the County has agreed to pay and the Entertainer has agreed to accept Five Hundred Dollars and No Cents (\$500.00) for such musical entertainment.

**NOW THEREFORE**, in consideration of the terms and conditions hereinafter provided the parties hereto, intending to be legally bound agree as follows:

1. The County shall pay the Entertainer the sum of Five Hundred Dollars and No Cents (\$500.00) by June 23<sup>rd</sup>, 2017 of which sum the Entertainer hereby acknowledges receipt thereof.
2. The Entertainer shall provide musical entertainment at the Poplar Gap Park Buchanan County Fair for Friday, June 23<sup>rd</sup>, 2017 from 5:30 p.m. to 6:40 p.m. The Entertainer shall be responsible for all its (their) expenses, including any applicable insurance.

**IN WITNESS WHEREOF**, the parties have executed this Contract/Receipt in their appropriate capacities the day and year first above written.

**BUCHANAN COUNTY**, a political  
Subdivision of the Commonwealth of Virginia

By: \_\_\_\_\_  
J. Carroll Branham, Chairman of the  
Buchanan County, Va., Board of Supervisors

**ATTEST:**

\_\_\_\_\_  
Robert Craig Horn, County Administrator

**CONTRACT/RECEIPT**

This contract made and entered into this 15<sup>th</sup> day of June, 2017, by and between **KT Vandyke** (the “Entertainer), whose mailing address is 314 Roberta at SW apt 2, Abingdon, Virginia 24210 and **Buchanan County** (“County”), a political subdivision of the Commonwealth of Virginia, c/o Robert Craig Horn, County Administrator, P.O. Box 950, Grundy, Virginia 24614 (the “Buyer”).

**WITNESSETH:**

**WHEREAS**, the County wishes to conduct the Buchanan County Fair (“Festival”) at Poplar Gap Park, Virginia on Saturday, June 24th, 2017, with entertainment beginning at 6:45 p.m. and ending at 7:45 p.m.; and

**WHEREAS**, the Entertainer wishes to provide musical entertainment at said Festival; and

**WHEREAS**, the County wishes to engage the Entertainer to provide such musical entertainment at the Festival; and

**WHEREAS**, the County has agreed to pay and the Entertainer has agreed to accept Five Hundred Dollars and No Cents (\$500.00) for such musical entertainment.

**NOW THEREFORE**, in consideration of the terms and conditions hereinafter provided the parties hereto, intending to be legally bound agree as follows:

1. The County shall pay the Entertainer the sum of Five Hundred Dollars and No Cents (\$500.00) by June 24th, 2017 of which sum the Entertainer hereby acknowledges receipt thereof.
2. The Entertainer shall provide musical entertainment at the Poplar Gap Park Buchanan County Fair for Saturday, June 24th, 2017 from 6:45 p.m. to 7:45 p.m. The Entertainer shall be responsible for all its (their) expenses, including any applicable insurance.

**IN WITNESS WHEREOF**, the parties have executed this Contract/Receipt in their appropriate capacities the day and year first above written.

**BUCHANAN COUNTY**, a political  
Subdivision of the Commonwealth of Virginia

By: \_\_\_\_\_  
J. Carroll Branham, Chairman of the  
Buchanan County, Va., Board of Supervisors

**ATTEST:**

\_\_\_\_\_  
Robert Craig Horn, County Administrator

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**IN RE: DAVID ROSE, SENIOR VICE PRESIDENT & CO-MANAGER OF PUBLIC FINANCE WITH DAVENPORT AND COMPANY, LLC.**

David Rose, Senior Vice President & Co-Manager of Public Finance stated Davenport & Company, LLC was hired for financial advisory services related to the design-build of the new courthouse and government center under the Virginia Public Private

Education Facilities and Infrastructure Act (PPEA). I'm not here to endorse the project or the size of the project, but I'm here to assist the board's decision how to fund the project.

Curtis Elswick with Skanska is here today to present a time line for the project, stated Mr. Rose. I can be here at the July board meeting with legal financial options for the renovations of the courthouse and new government center, he stated. We will look at any future debt services, focus on the funds in the CNX Gas account and what's best to utilize those funds.

The deadline for the Virginia Resources Authority (VRA) Loan is August 4<sup>th</sup> for local governments to apply for funding for special project at below market rates, stated Mr. Rose. VRA doesn't charge the county for applying, he commented.

We do know that the county is going to need up to \$21 million, stated Mr. Rose.

Trey Adkins, Knox District Supervisor stated I think the project will be less than \$21 million. We've made some adjustments to the same of the proposed government center.

Roger Rife, South Grundy District Supervisor stated I was told that both projects would only cost \$16 million.

Robert C. Horn, County Administrator stated the \$16 million was the amount before it was changed the last time.

We won't know the exact numbers until later this year, stated Mr. Adkins. The amount will go down from the \$21 million, since we've downsized the proposed government center by 9,000 square feet. It's estimated at \$19.5 million now and we're still working on the changes, he stated.

I'll support the project if it's around \$16 million, but not at \$21 million, stated Mr. Rife.

We'll be a lot less than \$21 million, but more than \$16 million, stated Mr. Adkins.

When the numbers are provided for us, we'll work with them, commented Mr. Rose. We won't do any financing until we have the correct amount for the projects.

Mr. Elswick stated the proposed government center is in design and the courthouse renovation project will be in design next month. There is work to be done at the former optometry school to allow the offices to move into that facility.

After a general discussion by the board, no action was taken at this time.

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**IN RE: GENERAL DISCUSSION CONCERNING THE BUCHANAN COUNTY  
PUBLIC SERVICE AUTHORITY**

Trey Adkins, Knox District Supervisor stated the last payment of a loan for the

Buchanan County Public Service Authority is due July 1<sup>st</sup>, 2017 in the amount of \$348,000, that was the ready for the \$3 water rate increase, no realizing it's going to drop off. If we could utilize some of the CNX Gas funds to pay this payment and pay off some of the PSA's loan, then it will downsize the budget request from the PSA.

J. Carroll Branham, Chairman suggested discussing this issue in closed session.

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**IN RE: PUBLIC HEARING – 10:30 A.M. – TO HEAR PUBLIC COMMENTS REGARDING THE MERITS OF ENTERING INTO AN INTERIM AGREEMENT WITH J.A. STREET & ASSOCIATES FOR THE RENOVATION AND EXPANSION OF THE BUCHANAN COUNTY COURTHOUSE PURSUANT TO THE PPEA PROCESS.**

J. Carroll Branham, Chairman opened the public hearing for comments. With no comments from the public upon motion by Trey Adkins seconded by Earl Scott and with a roll call vote of seven (7) yeas, J. Carroll Branham, William P. Harris, Earl Scott, Trey Adkins, Craig Stiltner, G. Roger Rife, Harold H. Fuller and zero (0) nays, this board did hereby approve to closed the public hearing.

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**IN RE: BROOKE BOYD, PARK MANAGER – REQUEST FUNDING**

Brooke Boyd, Park Manager requested funding for the 2017 Buchanan County Fair. Previously, the board had suggested transferring the funds, but it hasn't been done.

After a general discussion by the board Upon motion by Trey Adkins seconded by Earl Scott and with the following roll call vote of seven (7) yeas, J. Carroll Branham, William P. Harris, Earl Scott, Trey Adkins, Craig Stiltner, G. Roger Rife, Harold H. Fuller and zero (0) nays, this board did hereby approve a transfer in the amount of \$10,000 from Building Code Office, salaries account number 34010-1150 to Buchanan County Fair account number 72010-5604.

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**IN RE: GENERAL DISCUSSION CONCERNING SALARIES OF PARK MANAGERS**

Craig Stiltner, Rocklick District Supervisor asked what were the salaries of the park managers?

Trey Adkins, Knox District Supervisor stated Hurley Park's Manager makes around \$26,000 to \$27,000 thousand a year.

William P. Harris, Hurricane District Supervisor stated the Council Park Manager has been there over 20 years makes around \$32,000 per year. I supplement her salary from my park and recreation account.

Mr. Stiltner requested the salaries of all the park managers in the county. He stated Brooke Boyd takes care of five (5) parks just in his district alone, plus Poplar Gap Park Athletic Field and some in the other districts.

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**IN RE:            CONSIDER A CONTRIBUTION TO HURLEY YOUTH SPORTS, INC.**

After a general discussion by the board upon motion by Trey Adkins seconded by Earl Scott and with the following roll call vote of seven (7) yeas, Trey Adkins, Craig Stiltner, G. Roger Rife, Harold H. Fuller, J. Carroll Branham, William P. Harris, Earl Scott and zero (0) nays, this board did hereby approve to issue a check in the amount of \$6,500 to Hurley Youth Sports Inc. (\$5,500.00 from Hurley Youth Sports, Inc. and \$1,000 from Knox District Park and Development account 71060-7010-04).

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**IN RE:            CONSIDER APPROVING THE SIGNING OF THE INTERIM AGREEMENT BETWEEN BUCHANAN COUNTY AND J. A. STREET & ASSOCIATES ON OR AFTER JULY 17<sup>TH</sup>, 2017 AND AUTHORIZE THE CHAIRMAN OF THE BUCHANAN COUNTY BOARD OF SUPERVISORS AND COUNTY ADMINISTRATOR FOR BUCHANAN COUNTY, VIRGINIA TO EXECUTE SUCH CONTRACTS ON BEHALF OF BUCHANAN COUNTY WITH THE APPROVAL AS TO FORM BY THE COUNTY ATTORNEY**

L. Lee Moise, County Attorney stated the Interim Agreement between Buchanan County and J.A. Street & Associates cannot be approved until 30 days after the public hearing, therefore the board should wait until the July board meeting to consider it.

This issue was tabled, no action taken.

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**IN RE:            CONSIDER RATIFYING THE SERVICE AGREEMENT WITH IWORDQ SYSTEMS**

After a general discussion by the board upon motion by Earl Scott seconded by Harold H. Fuller and with the following roll call vote of seven (7) yeas, Earl Scott, G. Roger Rife, Trey Adkins, William P. Harris, Craig Stiltner, J. Carroll Branham, Harold H. Fuller and zero (0) nays, this board did hereby ratify the Service Agreement with iWorQ Systems.

**IN RE: CONSIDER APPROVING AN ADDITIONAL BUDGET APPROPRIATION TO THE BUCHANAN COUNTY SHERIFF'S OFFICE FOR TWO (2) FULL TIME DISPATCHERS WITH AN ANNUAL SALARY OF \$21,000 WITH BENEFITS**

Robert C. Horn, County Administrator stated an additional appropriation would need to be done regarding the request. The amount would be \$42,000 plus benefits.

J. Carroll Branham, Chairman stated there was enough dispatchers before they relocated to the sheriff's office. What happened?

Ray Foster, Sheriff stated it was recommended by Tim Addington, ENP for Virginia Information Technologies Agency (VITA) that the E-911 Office have a minimum of two (2) dispatchers on duty and present in the communications center at all times. If one (1) dispatcher calls in because of sickness, then it would leave one (1) dispatchers for the communication center. When you have ten (10) dispatchers for three (3) shifts, it's not enough.

Craig Stiltner, Rocklick District Supervisor stated it was state mandated that the schools have a School Resource Officer (SRO), which were funded for eight (8) years. Now, it's costing the county \$600,000 to \$800,000 a year to fund those SRO. Just last year the county laid off employees to cut back.

I'm just telling you what is required, stated Sheriff Foster.

After a general discussion by the board, this issue was tabled.

**IN RE: CONSIDER APPROVING TO ADD AN ADDITIONAL LINE ITEM TO THE BUCHANAN COUNTY SHERIFF'S OFFICE BUDGET**

This issue was tabled, no action taken.

**IN RE: CONSIDER APPROVING TO TRANSFER \$2,000 FROM ASSET FORFEITURE ACCOUNT, FUND 35 TO SHERIFF'S OFFICE (SALARIES AND WAGES) ACCOUNT NUMBER 31020-1150**

After a general discussion by the board upon motion by William P. Harris seconded by Earl Scott and with the following roll call vote of seven (7) yeas, William P. Harris, Earl Scott, Trey Adkins, Craig Stiltner, G. Roger Rife, J. Carroll Branham, Harold H. Fuller and zero (0) nays, this board did hereby approve to transfer \$2,000 from Asset Forfeiture account, Fund 35 to Sheriff's Office (salaries and wages) account number 31020-1150.

**IN RE:            CONSIDER APPROVING TRANSFERS FOR THE BUCHANAN  
                         COUNTY COMMISSIONER OF REVENUE’S OFFICE**

After a general discussion by the board upon motion by G. Roger Rife seconded by Earl Scott and with the following roll call vote of seven (7) yeas, William P. Harris, Earl Scott, Trey Adkins, Craig Stiltner, G. Roger Rife, J. Carroll Branham, Harold H. Fuller and zero (0) nays, this board did hereby approve the following transfers for the Buchanan County Commissioner of Revenue’s Office:

- Transfer \$2,500 from (postal service), account number 12090-5210 to (machinery & equipment), account number 12090-8101;
- Transfer \$1,472.14 from (maintenance contract), account number 12090-3320 to machinery & equipment), account number 12090-8101;
- Transfer \$649.90 from (repairs), account number 12090-3310 to machinery & equipment), account number 12090-8101.

**IN RE:            CONSIDER APPROVING ADDITIONAL APPROPRIATIONS**

After a general discussion by the board upon motion by Trey Adkins seconded William P. Harris and a roll call vote of seven (7) yeas, William P. Harris, Earl Scott, Trey Adkins, Craig Stiltner, G. Roger Rife, J. Carroll Branham, Harold H. Fuller and zero (0) nays, this board did hereby approve the following Additional appropriations:

- Additional appropriation to Hurricane District Park and Rec., account number 71040-6022-02 in the amount of \$1,234.00;
- Additional appropriation to Hurricane District Park and Rec., account number 71040-6022-02 in the amount of \$575.00;
- Additional appropriation to Hurricane District Park and Rec., account number 71040-6022-02 in the amount of \$3,569.95;
- Additional appropriation to Co. Athletic Field, account number 71040-5604-09 in the amount of \$2,301.74;
- Additional appropriation to Rocklick Park and Rec., account number 71040-5604-06 in the amount of \$250.00;
- Additional appropriation to Garden District Park and Rec., account number 71040-5604-01 in the amount of \$125.00;
- Additional appropriation to Garden District Park and Rec., account number 71040-5604-01 in the amount of \$125.00;



- Additional appropriation to Garden District Park and Development, account number 71060-7010-03 in the amount of \$1,200.00;
- Consider Additional appropriation to Garden District Park and Development, account number 71060-7010-03 in the amount of \$600.00;
- Additional appropriation to Garden District Park and Rec., account number 71040-5604-01 in the amount of \$825.00;
- Additional appropriation to Circuit Court Clerk’s Office, account number 21060-3320 in the amount of \$167.05;
- Additional appropriation to Treasurer’s Office, (office supplies), account number 12130-6001 in the amount of \$33.50;
- Additional appropriation to F37, account number 93100-2700-01 in the amount of \$449.00;
- Additional appropriation to Knox District Park and Development, account number 71060-7010-04 in the amount of \$6,810.86;
- Additional appropriation to Hurricane District Park and Recreation, account number 71040-6022-02 in the amount of \$5,498.85.

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**IN RE:            CONSIDER APPROVING TO ISSUE A CHECK FOR THE COYOTE CLAIMS IN THE AMOUNT OF \$50.00**

After a general discussion by the board upon motion by G. Roger Rife seconded William P. Harris and a roll call vote of seven (7) yeas, G. Roger Rife, William P. Harris, Trey Adkins, Craig Stiltner, Earl Scott, Harold H. Fuller, J. Carroll Branham and zero (0) nays, this board did hereby approve to issue a check for the following coyote claims in the amount of \$50.00 from Fund 10, livestock claims account number 35010-8104:

- Charles Compton (Two Claims)
- Lukas Shortt
- Anthony Hensley
- Arvil Quinley

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**IN RE: CONSIDER APPROVAL TO TRANSFER \$894,376.00 TO GENERAL DEBT FUND FROM THE GENERAL FUND TO PAY THE SCHOOL OPERATING BONDS PRINCIPAL AND INTEREST PAYMENTS DUE FOR FISCAL YEAR**

After a general discussion by the board upon motion by G. Roger Rife seconded by William P. Harris and with the following roll call vote of seven (7) yeas, G. Roger Rife, William P. Harris, Trey Adkins, Craig Stiltner, Earl Scott, Harold H. Fuller, J. Carroll Branham and zero (0) nays, this board did hereby to transfer \$894,376.00 to General Debt Fund from the General Fund to pay the school operating bonds principal and interest payments due for fiscal year.

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**IN RE: CONSIDER APPROVING THE CHANGE ORDER REGARDING THE RELOCATION OF E-911 DEPT**

After a general discussion by the board upon motion by Trey Adkins seconded by Earl Scott and with the following roll call vote of seven (7) yeas, G. Roger Rife, William P. Harris, Trey Adkins, Craig Stiltner, Earl Scott, Harold H. Fuller, J. Carroll Branham and zero (0) nays, this board did hereby approve the Change Order for Two Way Radio Services regarding the relocation of E-911 Dept.

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**IN RE: CONSIDER APPROVING THE CONTRACTOR'S APPLICATION FOR PAYMENT NO. 3 IN THE AMOUNT OF \$11,319.86 TO TWO WAY RADIO SERVICES REGARDING THE RELOCATION OF E-911 DEPT.**

After a general discussion by the board upon motion by Trey Adkins seconded by Earl Scott and with the following roll call vote of seven (7) yeas, G. Roger Rife, William P. Harris, Trey Adkins, Craig Stiltner, Earl Scott, Harold H. Fuller, J. Carroll Branham and zero (0) nays, this board did hereby approve the Contractor's Application for Payment No 3 in the amount of \$11,319.86 to Two Way Radio Service regarding the relocation of E-911 Dept.

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**IN RE: CONSIDER APPROVING THE CONTRACTOR'S APPLICATION FOR PAYMENT NO. 3 IN THE AMOUNT OF \$1,752.55 TO TWO WAY RADIO SERVICES REGARDING THE RELOCATION OF E-911 DEPT.**

After a general discussion by the board upon motion by Earl Scott seconded by William P. Harris and with the following roll call vote of seven (7) yeas, G. Roger Rife,

William P. Harris, Trey Adkins, Craig Stiltner, Earl Scott, Harold H. Fuller, J. Carroll Branham and zero (0) nays, this board did hereby approve the Contractor's Application for Payment No 3 in the amount of \$1,752.55 to Two Way Radio Service regarding the relocation of E-911 Dept.

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**IN RE: CONSIDER APPROVING THE CONTRACTOR'S APPLICATION FOR PAYMENT NO 3 IN THE AMOUNT OF \$140,810.82 TO IGO TECHNOLOGY INC. REGARDING THE RELOCATION OF E-911 DEPT.**

After a general discussion by the board upon motion by Trey Adkins seconded by Earl Scott and with the following roll call vote of seven (7) yeas, G. Roger Rife, William P. Harris, Trey Adkins, Craig Stiltner, Earl Scott, Harold H. Fuller, J. Carroll Branham and zero (0) nays, this board did hereby approve the Contractor's Application for Payment No 3 in the amount of \$140,810.82 to IGO Technology Inc. regarding the relocation of E-911 Dept.

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**IN RE: CONSIDER APPROVING THE SOUTHWEST VIRGINIA CHIEF LOCAL ELECTED OFFICIALS CONSORTIUM AGREEMENT AND CONSIDER APPOINTING AN ALTERNATE TO ATTEND THE QUARTERLY MEETINGS WHEN G. ROGER RIFE IS UNABLE TO ATTEND**

After a general discussion by the board upon motion of Harold H. Fuller seconded by Earl Scott and with a roll call vote of seven (7) yeas, G. Roger Rife, William P. Harris, Trey Adkins, Craig Stiltner, Earl Scott, Harold H. Fuller, J. Carroll Branham and zero (0) nays, this board did hereby approve the Southwest Virginia Chief Local Elected Officials Consortium Agreement.

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**IN RE: CONSIDER APPROVING LIFEGUARDS/CONCESSION, WEED EATERS FOR COUNCIL POOL AND PARK**

Upon motion by William P. Harris to approve the lifeguards/concession and weed cutter for the Council Pool and park.

Craig Stiltner, Rocklick District Supervisor asked how many pool employees have been hired for Council Pool? Are all the additional people paid from Hurricane District Park and Recreation?

Mr. Harris stated four (4) lifeguards.

Robert C. Horn, County Administrator stated the lifeguards are paid from general properties and for each district two (2) week cutters are paid from general properties and the others from the districts highways, streets and bridges account.

Mr. Stiltner asked how many lifeguards are working at the Council Pool?

I know there has to be more than four (4).

Roger Rife, South Grundy District Supervisor stated when there's a horse show, we have to pay the labor out of money taken at the show. It could work the same way regarding the lifeguards at the pool. It doesn't make sense to me for the county pay the workers for the horse show from funds collected at the horse show and the lifeguards are paid from general properties.

L. Lee Moise, County Attorney stated yes it could be done the same way as the horse show.

Harold H. Fuller, Garden District Supervisor asked what's the difference? "Nothing"

We've always paid the lifeguards from general properties, stated Trey Adkins, Knox District Supervisor.

When Mr. Harris put the splash pool in, it doubled the work force at the pool, stated Mr. Stiltner.

I want to see how many lifeguards are being paid for Council pool, asked Mr. Stiltner. I would say we're paying \$12,000 to \$14,000 per month for those lifeguards. How much is being collected at the pool and put in the Hurricane District park and development account?

We should pay for some of the lifeguards, it's different than a horse show, stated Mr. Adkins.

I don't know how we can solve this problem, commented Mr. Rife.

I want to wait and see how many lifeguards are working at the Council Pool, commented Mr. Stiltner. If they're bringing in \$10,000 every two (2) weeks that's collected at the pool, then those funds should be paying for the lifeguards, he stated.

Mr. Harris made a motion to approve the list of part-time employees for the Council Park, with no second to his motion and the following roll call vote of three (3) yeas, William P. Harris, Earl Scott, J. Carroll Branham, three (3) nays, Craig Stiltner, Harold H. Fuller and G. Roger Rife and one (1) absent, Trey Adkins, the motion failed.

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**IN RE: CONSIDER APPROVING APPOINTMENTS AND/OR REAPPOINTMENTS TO THE APPALACHIAN AGENCY SENIOR CITIZENS BOARD OF DIRECTORS FOR A TWO-YEAR TERM BEGINNING JULY 1ST, 2017 (CURRENT KEMPER BAUSELL AND GRACE RATLIFF)**

After a general discussion by the board upon motion of Harold H. Fuller seconded by Craig Stiltner and with a roll call vote of seven (7) yeas, Harold H. Fuller, Trey Adkins, William P. Harris, G. Roger Rife, J. Carroll Branham, Earl Scott, Craig Stiltner and zero (0) nays, this board did hereby reappoint Kemper Bausell and Grace Ratliff to the Appalachian Agency for Senior Citizens Board of Directors for a two-year term ending June 30<sup>th</sup>, 2019.

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**IN RE: CONSIDER APPOINTMENT TO THE PEOPLE INC. BOARD OF DIRECTORS**

After a general discussion by the board upon motion by Trey Adkins seconded by William P. Harris and with a roll call vote of six (6) yeas, Trey Adkins, William P. Harris, G. Roger Rife, J. Carroll Branham, Earl Scott, Craig Stiltner, zero (0) nays and one (1) abstention, Harold H. Fuller, this board did hereby appoint Hufford Rife to the People Incorporated Board of Directors.

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**IN RE: CONSIDER APPROVING TO ACCEPT THE RESIGNATION FROM PATRICIA K. MOUNTS ON THE CUMBERLAND MOUNTAIN COMMUNITY SERVICES BOARD AND CONSIDER APPOINTMENT TO THE BOARD**

After a general discussion by the board upon motion by Harold H. Fuller seconded by Trey Adkins and with a roll call vote of seven (7) yeas, Harold H. Fuller, Trey Adkins, William P. Harris, G. Roger Rife, J. Carroll Branham, Earl Scott, Craig Stiltner and zero (0) nays, this board did hereby accept the resignation from Patricia Mounts and appointed Maxine Mullins to the Board of Directors of Cumberland Mountain Community Services Board to fill the unexpired term of Ms. Mounts ending on December 31<sup>st</sup>, 2018.

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**IN RE: CONSIDER APPROVAL BIDS FROM TECHNI-TURF LLC. FOR THE GENERAL TURF MAINTENANCE WORK FOR THE POPLAR GAP PARK ATHLETIC FIELDS AND AUTHORIZE THE CHAIRMAN OF THE BUCHANAN COUNTY BOARD OF SUPERVISORS AND COUNTY ADMINISTRATOR FOR BUCHANAN COUNTY, VIRGINIA TO EXECUTE SUCH CONTRACT ON BEHALF OF BUCHANAN COUNTY WITH THE APPROVAL AS TO FORM BY THE COUNTY ATTORNEY**

After a general discussion by the board upon motion by Craig Stiltner seconded by Harold H. Fuller and with the following roll call vote of seven (7) yeas, Harold H. Fuller, Trey Adkins, William P. Harris, G. Roger Rife, J. Carroll Branham, Earl Scott, Craig Stiltner and zero (0) nays, this board did hereby approve the following Contract between Buchanan County and Techni Turf, LLC. regarding the Poplar Gap Park Athletic Fields:

**CONTRACT**

**THIS AGREEMENT**, made and entered into this the 15<sup>th</sup> day of June, 2017 by and between **BUCHANAN COUNTY, a political subdivision of the Commonwealth of Virginia**, party of the first part, and **TECHNI-TURF, LLC**, party of the second part, hereinafter referred to as **“Contractor”**.

**WITNESSETH:**

**THAT** for and in consideration of the mutual covenants and agreements herein contained, the parties hereto do hereby agree as follows:

**I**

The Contractor agrees to provide general turf maintenance for the Athletic Fields at the Poplar Gap Park in Grundy, Virginia pursuant scope of services contained within **"THE INVITATION TO BID"** and make a part of this contract by reference thereto, as **Exhibit “A”** in Buchanan County, a copy of which is attached hereto and made a part hereof by reference.

**II**

The Contractor agrees to perform and complete or cause to be performed or completed all such turf maintenance work in accordance with the techniques and methods of provided for by applicable law, the standards of the turf maintenance industry, and the specifications referenced above. The Contractor further agrees that all equipment and materials used in the installation shall meet all those requirements and specifications in compliance with the laws of the United States and the Commonwealth of Virginia.

**III**

The Contractor shall, at his own cost and expense, obtain and pay for all licenses, permits, certificates and surveys required for the completion of the work under this Agreement.

#### IV

The Contractor shall, at his own cost and expense, procure and maintain insurance required under the Virginia Workers' Compensation Act as well as liability insurance covering damages to person and property in the minimum amount of \$1,000,000.00 and shall furnish a Certificate of Insurance to the Board.

The Contractor agrees to perform all the work required of him under this Agreement in a good and workmanlike manner under the supervision and direction of Buchanan County or its designated agents or employees. The Contractor will not subcontract any of the work described herein without the prior approval of the Buchanan County Board of Supervisors. The Contractor will guarantee any work which would be performed by the sub-contractors. The Contractor further agrees to notify the County Administrator at least 24 hours before commencing work hereunder.

#### V

The Contractor in the performance of this contract does not and shall not knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

#### VI

The Board shall pay the Contractor for the performance of the work and the furnishing of the material under this Agreement according to "**THE INVITATION TO BID**" Exhibit "A" upon the satisfactory completion of the aforesaid project. No partial performance payments will be made.

#### VII

A. Anything in this Agreement to the contrary notwithstanding, the final payment above set forth shall not become due and payable to the Contractor until thirty (30) days after the satisfactory completion of such project and until after the said Contractor has delivered to the Board satisfactory evidence that all claims, liens, and claims for liens and assignments of any sums due hereunder of Contractor's laborers, workmen and material men or any other persons, firms, associations, or corporations who may have performed any labor or furnished any materials under, or in connection with the performance of this Agreement have been paid in full.

B. The County shall notify the Contractor in writing of any defect or impropriety, which could prevent payment by the payment date within twenty (20) days of the completion of the project and the receipt of the materials described in Paragraph 7 A herein.

C. In the event of a dispute between the Contractor and a subcontractor and regardless of any other language herein, the Contractor may still be paid in full if he provides the County with written notice of the reason for nonpayment. Upon being paid in full the Contractor shall take one of the two following actions within seven (7) days after having

received payment from the County:

1. Pay the subcontractor for the proportionate share of the total payment received from the agency attributable to the work performed by the subcontractor under the contract; or
2. Notify the County and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

D. An individual contractor shall provide his social security number to the County and proprietorships, partnerships, and corporations shall provide their federal employer identification numbers to the County.

E. The contractor shall be obligated to pay interest to any subcontractor on all amounts owed by the contractor that remain unpaid after seven (7) days following receipt by the contractor of payment from the County for work performed by the subcontractor under this contract, except for amounts withheld as allowed in subdivision C2 of this section.

F. Interest shall accrue at the legal rate.

G. The contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

H. The contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section may not be construed to be an obligation of the County. A contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

## **VIII**

The Contractor shall indemnify and save harmless Buchanan County and its Board of Supervisors against all losses, or damages on account of injury to persons or property occurring in the performance of this Agreement together with any and all attorneys' fees incurred by Buchanan County on account of any thereof.

## **IX**

In the event that the Contractor fails to complete the work required of him under this Agreement or abandons the said work or in any other way is in default of performance hereunder, the Board and its agents shall have the right to enter upon the premises upon, which the work is being done and take possession thereof and of any material thereon, whether supplied by the Contractor or otherwise, and use such material and complete the said Agreement through workmen or contractors or subcontractors employed by the Contractor and in every way perform the Agreement as is required to be done by the Contractor. In the event that the cost of such work and the furnishing of such material as may be required to be furnished exceeds the amount then remaining due the Contractor under the said Agreement,



the Contractor shall pay to the Board the amount of such deficiency. But if such amount remaining in the hands of the Board under this Agreement at the time of the default of the Contractor exceeds the amount required to complete the said Agreement, then upon such completion the Buchanan County Board of supervisors shall pay such surplus to the Contractor.

## **X**

In the performance of the work under this Agreement, the Contractor shall conform to all applicable laws, ordinances, rules and regulations now in force or hereafter adopted and shall obtain all permits, licenses and consents required by such laws, ordinances, rules and regulations.

## **XI**

During the performance of this Agreement, the Contractor agrees as follows:

- A.
  - 1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - 2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
  - 3. Notices, advertisements and solicitations placed in accordance with federal law, rules or regulations shall be deemed sufficient for the purpose of meeting the requirements of this section.
- B. The Contractor will include the provisions of the foregoing paragraphs a, b, and c in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.
- C. During the performance of this contract, the Contractor will:
  - 1. Provide a drug-free workplace for the Contractor's employees;
  - 2. Post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
  - 3. State in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and
  - 4. Include the provisions of the foregoing clauses in every subcontract or purchase order of over

\$10,000.00 so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

D. In the event of the Contractor's noncompliance with this section of this Contract, (Section XI), this agreement may be cancelled, terminated or suspended, in whole or part, and the Contractor may be declared ineligible for further Agreements and such other sanctions may be imposed and remedies invoked as otherwise provided by law.

## **XII**

The Contractor shall, at all times, keep all roads, in the construction area, open and passable to normal traffic, considering short delays, which may be necessary in the performance of the work covered by the Agreement.

## **XIII**

No extra work, not required by the plans and specifications hereinbefore mentioned, shall be performed or other material furnished unless on written order of the Board certifying that the performance of such extra work has been approved and authorized by it and there has been compliance with Virginia Code section 2.2-4309.

## **XIV**

No extra compensation not specified in this Agreement shall be demanded or received by the Contractor for any changes or alterations in the work performed under this Agreement, or for any extra work unless the foregoing provisions of this Agreement have been complied with strictly and modification of said contract is compliant with Va. Code section 2.2-4309.

## **XV**

No modification of any of the terms of this contract, nor any extension of the length of time allowed for the completion of the work governed by this contract, shall be valid without the advance written approval of the Buchanan County Board of Supervisors and in compliance with Va. Code section 2.2-4309.

The Contractor shall not assign his rights or obligations under this Agreement, nor have more than fifty percent (50%) of the work required by this Agreement performed by sub-contractors and only after approval be the Board of Supervisors.

## **XVI**

Claims by the Contractors shall be made in accordance with Section 11-69 of the 1950 Code of Virginia, as amended, and shall include a sworn written statement of facts substantiating such claims, together with copies of all documents and photographs which

tend to substantiate such claims. The Contractor shall be allowed to appear before the Board of Supervisors within thirty (30) days after having filed such claim to present its argument in support of such claim. The Board of Supervisors shall rule on such claim in writing within sixty (60) days of the time set for such hearing.

**XVII**

The parties agree that in the event the Contractor defaults in its performance of this Agreement or in the event that any money is paid by the Contractor's surety for the completion of this Contract, that the Contractor shall be disqualified from bidding on any future county construction projects for a period of two (2) years.

**XIII**

The County may cancel this Agreement at any time based upon a decision by the Buchanan County Board of Supervisors that such cancellation is in the best interest of the County. Any such decision shall be a discretionary decision of the Board. In the event of a cancellation pursuant to this paragraph, then the County shall not be liable to the Contractor for his bidding cost or for any amount other than the fair market value of the construction work completed by the Contractor pursuant to this Contract as of the time of the cancellation.

**XIX**

This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia. The parties agree that the Circuit Court for Buchanan County shall be the proper venue for any litigation hereunder whether or not such alleged breach involves Federal law or jurisdiction.

**XX**

If any provisions of this Agreement shall be deemed by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall nevertheless remain in full force and effect.

**XXI**

The Contractor if organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as registered limited partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity.

**EXECUTED IN DUPLICATE ORIGINALS.**

**WITNESS** the following signatures and seals:

**BUCHANAN COUNTY BOARD OF SUPERVISORS**

By: \_\_\_\_\_  
J. Carroll Branham, Chairman

ATTEST:

\_\_\_\_\_  
Robert Craig Horn, County Administrator

**CONTRACTOR: Techni-Turf, LLC**

By: \_\_\_\_\_  
Quent Baria

\_\_\_\_\_ 000 \_\_\_\_\_

**IN RE: CONSIDER APPOINTMENTS AND/OR REAPPOINTMENTS TO THE BUCHANAN COUNTY PLANNING COMMISSION FOR HURRICANE AND NORTH GRUNDY MAGISTERIAL DISTRICTS FOR A FOUR-YEAR TERM. (ROBERT HIBBITTS, NORTH GRUNDY DISTRICT REPRESENTATIVE EXPIRED MAY 2017 AND RUBY HALE, HURRICANE DISTRICT REPRESENTATIVE, EXPIRED NOVEMBER 2016)**

After a general discussion by the board upon motion by William P. Harris seconded by Trey Adkins with a roll call vote of seven (7) yeas, Harold H. Fuller, William P. Harris, Earl Scott, G. Roger Rife, Trey Adkins, Craig Stiltner, J. Carroll Branham and zero (0) nays, this board did hereby reappoint Robert Hibbitts, North Grundy District Representative and Ruby Hale, Hurricane District Representative to the Buchanan County Planning Commission for a four (4) year term effective June 15<sup>th</sup>, 2017.

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**IN RE: CONSIDER APPROVING TO RENEW WITH PEST CONTROL PLUS, INC. FOR JULY 1<sup>ST</sup>, 2017 THROUGH JUNE 30<sup>TH</sup>, 2018 AT THE CURRENT RATE**

Upon motion by Trey Adkins to renew with Pest Control Plus, Inc. for July 1<sup>st</sup> through June 30<sup>th</sup>, 2018 at the current rate for pest control, with no second to his motion, Mr. Adkins withdrew his motion.

Upon motion by Craig Stiltner seconded by Trey Adkins and with the following roll call vote of seven (7) yeas, Harold H. Fuller, William P. Harris, Earl Scott, G. Roger Rife, Trey Adkins, Craig Stiltner, J. Carroll Branham and zero (0) nays, this board did hereby approve to request bids for exterminating services for pest control in county and state offices and/or buildings.

\_\_\_\_\_ 000 \_\_\_\_\_

**IN RE: CONSIDER APPROVING AN ADDITIONAL BUDGET APPROPRIATION IN THE AMOUNT OF \$8,000 TO THE BUCHANAN COUNTY PUBLIC LIBRARY, (CONSTRUCTION) FISCAL YEAR 2017/2018 BUDGET**

This issue was tabled, no action taken.

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**IN RE: CONSIDER RESCHEDULING THE JULY 10<sup>TH</sup> BOARD MEETING TO MONDAY, JULY 17<sup>TH</sup> AT 10:00 A.M.**

Upon motion by Trey Adkins seconded by Harold H. Fuller and with a roll call vote of seven (7) yeas, Harold H. Fuller, William P. Harris, Earl Scott, G. Roger Rife, Trey Adkins, Craig Stiltner, J. Carroll Branham and zero (0) nays, this board did hereby approve to reschedule the July 10<sup>th</sup> board meeting to Monday, July 17<sup>th</sup>, 2017 at 10:00 a.m.

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**IN RE: GENERAL DISCUSSION CONCERNING THE PROPERTY NEAR WATKINS BRANCH**

Billie Campbell with Terra Tech Engineering Services stated we're scheduling to move forward with the appraisal on the property next to the Town of Grundy's property that the county will need for parking once the proposed government center is completed.

J. Carroll Branham, Chairman asked if the Corp of Engineers provided a report of that property to Virginia Department of Transportation (VDOT) since there was a dry cleaning business years ago on the property?

James Keen, Town Manger stated there is a report which shows what they found and is attached to the deed that was provided to the town from VDOT.

Mr. Branham suggested discussing this issue in closed session.

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**IN RE: HAROLD WOODS, RESIDENT**

Harold Woods, resident in the Prater District stated I've been to the board before regarding barking dogs next to my home.

L. Lee Moise, County Attorney stated I can draft a proposed barking dog ordinance for the board to consider. Since, there's no barking dog ordinance in the county, only option is to get a private attorney and file a civil case in court.

Mr. Woods stated I've talked to the Commonwealth Attorney concerning this issue and the owner of the dogs told me he isn't going to do anything.

Craig Stiltner, Rocklick District Supervisor stated if a dog is going to bark and keep me up all night, then I'm going to do something. It's our job to do something, like we did in the Big Rock area when we had a problem with animals, he stated.

J. Carroll Branham, Chairman requested the County Attorney to draft a proposed barking dog ordinance.

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**IN RE: CLOSED SESSION 2.2-3711 1950 CODE OF VIRGINIA**

Upon a motion by Trey Adkins seconded by G. Roger Rife and with a roll call vote of seven (7) yeas, William P. Harris, Trey Adkins, Harold H. Fuller, Craig Stiltner, J. Carroll Branham, G. Roger Rife, Earl Scott and zero (0) nays, this board agreed to convene in closed session as permitted by Virginia Code Section, 2.2-3711 (A)(7), consultation with legal counsel regarding acquisition of property from Penn Va. (Bull Creek 3 parcels and E.W. Road); Virginia Code Section, 2.2-3711 (A)(7) consultation with legal counsel regarding the Town of Grundy vs. Buchanan County Public Service Authority and Board of Supervisors; Virginia Code Section, 2.2-3711 (A)(7), consultation with legal counsel regarding potential Set Back Ordinance; Virginia Code Section, 2.2-3711 (A)(7), consultation with legal counsel regarding potential Barking Dog Ordinance; Virginia Code Section, 2.2-3711 (A)(7), consultation with legal counsel regarding the proposed government center issues; Virginia Code Section, 2.2-3711 (A)(7), consultation with legal counsel regarding the Industrial Development Authority Resolution in support of Project Jonah; Virginia Code Section, 2.2-3711 (A)(7), consultation with legal counsel regarding Town Center property issue and Virginia Code Section, 2.2-3711 (A)(3)(7), consultation with legal counsel regarding the acquisition of property.

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Motion was made by Earl Scott to return from closed session seconded by William P. Harris and with a roll call vote of seven (7) yeas, William P. Harris, G. Roger Rife, J. Carroll Branham, Harold H. Fuller, Earl Scott, Craig Stiltner, Trey Adkins and zero (0) nays.

This board's meeting resumed in open session after being in executive session for two (2) hours and three (4) minutes.

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A motion by William P. Harris seconded by Earl Scott, with J. Carroll Branham, Chairman of the Buchanan County Board of Supervisors announcing during such session the board had also discussed Virginia Code Section, 2.2-3711 (A) (7), consultation with legal counsel updating on the BMI Dependent Audit.

The board of supervisors ratified the discussion of the additional matter during closed session and then each of the members of the board certified that they did not discuss any other matters other than the foregoing in such session.

The motion was agreed upon by the following roll call vote of seven (7) yeas, William P. Harris, G. Roger Rife, J. Carroll Branham, Harold H. Fuller, Earl Scott, Craig Stiltner, Trey Adkins and zero (0) nays.

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**IN RE: CONSIDER APPROVING AN ADDITIONAL APPROPRIATION TO THE BUCHANAN COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY AND TO ISSUE A CHECK TO THE TOWN OF GRUNDY INDUSTRIAL DEVELOPMENT AUTHORITY**

After a general discussion by the board upon motion by Harold H. Fuller seconded by Trey Adkins and with the following roll call vote of five (5) yeas, Harold H. Fuller, Trey Adkins, G. Roger Rife, Earl Scott, J. Carroll Branham, one (1) nay, William P. Harris and one (1) abstention, Craig Stiltner, this board did hereby approve an additional appropriation in the amount of \$229,000 to the Buchanan County Industrial Development Authority (contributions) 81020-5604 and to issue a check in this amount to the Town of Grundy Industrial Development Authority earmarked for the development of a new business.

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**IN RE: CONSIDER ADOPTING AN EMERGENCY ORDINANCE ENTITLED "SETBACK REQUIREMENTS FROM PUBLIC ROADWAYS, SECTION 25.1.1 PURSUANT TO VIRGINIA CODE SECTION 15.2-2279"**

After a general discussion by the board upon motion by Craig Stiltner seconded by Trey Adkins and with the following roll call vote of six (6) yeas, Craig Stiltner, Harold H. Fuller, Trey Adkins, G. Roger Rife, Earl Scott, J. Carroll Branham, and one (1) nay, William P. Harris, this board did hereby adopt the following Emergency Ordinance "Setback Requirements from Public Roadways, Section 25.1.1 pursuant to Virginia Code Section 15.2-2279".

Section 25-1.1---- Setback Requirement from Public Roadways  
Adopted pursuant to Va. Code section 15.2-2279

- (A) No building or manufactured home shall be built or placed within fifteen (15) feet of any public roadway.
- (B) Violations of this section shall be a Class 1 misdemeanor with a penalty of up to 12 months in jail and/or up to a fine of \$2, 500.00 or any combination thereof.

Note: Subsection (B) was not adopted as part of the emergency ordinance and will only be applicable if part of the permanently adopted ordinance after Public Hearing on July 17, 2017.

This emergency ordinance was adopted by the Buchanan County, Va. Board of Supervisors on the 15<sup>th</sup> day of June, 2017.

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J. Carroll Branham, Chairman,  
Buchanan County, Va. Board of Supervisors

Recorded Vote:  
J. Carroll Branham Nay  
Trey Adkins Yea  
William P. Harris Nay  
Harold Fuller Yea  
Craig Stiltner Yea  
Earl Scott Yea  
Roger Rife Yea

ATTESTED:

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Robert Craig Horn, County Administrator

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**IN RE: CONSIDER SCHEDULING A PUBLIC HEARING REGARDING THE PROPOSED ORDINANCE ENTITLED “SETBACK REQUIREMENTS FROM PUBLIC ROADWAYS, SECTION 25.1.1 PURSUANT TO VIRGINIA CODE SECTION 15.2-2279”**

After a general discussion by the board upon motion by Craig Stiltner seconded by Trey Adkins and with the following roll call vote of six (6) yeas, Craig Stiltner, Harold H. Fuller, Trey Adkins, G. Roger Rife, Earl Scott, J. Carroll Branham, and one (1) nay, William P. Harris, this board did hereby approve to schedule a public hearing for Monday, July 17<sup>th</sup> at 10:30 a.m. to hear public comments regarding the proposed Ordinance Entitled “Setback Requirements from Public Roadways, Section 25.1.1 Pursuant To Virginia Code Section 15.2-2279”.

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**IN RE: CONSIDER APPROVING AN EMERGENCY ORDINANCE ENTITLED “ARTICLE VII OF CHAPTER 22, REGARDING BARKING OR HOWLING DOGS.”**

After a general discussion by the board upon motion by Craig Stiltner seconded by Harold H. Fuller and with the following roll call vote of five (5) yeas Craig Stiltner, Harold H. Fuller, Trey Adkins, G. Roger Rife, Earl Scott, and two (2) nays, William P. Harris and J.



Carroll Branham, this board did hereby adopt the following Emergency Ordinance entitled “Article VII of Chapter 22, Regarding Barking or Howling Dogs:”

**ARTICLE VII OF CHAPTER 22**

**EMERGENCY ORDINANCE REGARDING BARKING OR HOWLING DOGS**

**Section 22-47**

- (a) The harboring or keeping of any dog whose barking or howling creates noise that is plainly audible at least once a minute for ten (10) consecutive minutes (1) inside the confines of the dwelling unit, house or apartment of another or (2) at fifty (50) or more feet from the dog is hereby declared to be a nuisance and unlawful.
- (b) Citizens affected by a barking dog are requested to contact the dog's owner, prior to contacting the County to attempt to resolve differences and objections with the owner of the barking dog.
- (c) Any person annoyed by the barking or howling by a dog in violation of this section may enter a complaint by warrant returnable to the general district court, where the complaint shall be heard as all other complaints under criminal warrants are heard.
- (d) The Animal Control Officers on behalf of the County may institute criminal or civil proceedings against any person the Animal Control Officer finds in violation of this section. Citizens may institute their own criminal or civil proceeding to resolve a barking dog problem.
- (e) Upon a finding by the judge that a dog made noise in violation of this section, the owner or custodian shall be deemed guilty of a Class 2 misdemeanor.
- (f) Upon any conviction, the judge may impose community service in lieu of or in addition to a fine.
- (g) Upon a third conviction within one year of any offense under this section involving the same dog, in addition to imposing a fine for the violation, the judge shall order the owner or custodian of the dog to remove it permanently from the County within two (2) weeks. Should the owner or custodian fail to comply with such order, the dog shall be seized by the Animal Control Officers and placed for adoption outside of the County.

This emergency ordinance was adopted by the Buchanan County, Va. Board of Supervisors on the 15<sup>th</sup> day of June, 2017.

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J. Carroll Branham, Chairman,  
Buchanan County, Va. Board of Supervisors

Recorded Vote:  
J. Carroll Branham Nay  
Trey Adkins Yea  
William P. Harris Nay  
Harold Fuller Yea  
Craig Stiltner Yea  
Earl Scott Yea  
Roger Rife Yea

ATTESTED:

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Robert Craig Horn, County Administrator

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**IN RE:            CONSIDER APPROVING TO SET A PUBLIC HEARING  
REGARDING THE PROPOSED ORDINANCE REGARDING  
BARKING OR HOWLING DOGS**

After a general discussion by the board upon motion by Trey Adkins seconded by Harold H. Fuller and with the following roll call vote of five (5) yeas, Craig Stiltner, Harold H. Fuller, Trey Adkins, G. Roger Rife, Earl Scott, and two (2) nays, William P. Harris. P. Harris, this board did hereby approve to schedule a public hearing for Monday, July 17<sup>th</sup> at 10:45 a.m. to hear public comments regarding the proposed Ordinance entitled: Ordinance Regarding Barking or Howling Dogs, Section 22-47.

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**IN RE:            CONSIDER APPROVING TO APPRAISE PROPERTY ADJACENT  
TO THE PROPERTY THE TOWN OF GRUNDY OWNS AT  
WATKINS BRANCH**

After a general discussion by the board upon motion by Trey Adkins seconded by Earl Scott and with the following roll call vote of seven (7) yeas, William P. Harris, J. Carroll Branham, Craig Stiltner, Harold H. Fuller, Trey Adkins, G. Roger Rife, Earl Scott and zero (0) nays, this board did hereby authorize an appraisal to be done by Jay Rife regarding the property adjacent to the property the Town of Grundy owns at Watkins Branch.

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**IN RE:            CONSIDER APPROVING AN ADDITIONAL APPROPRIATION TO  
THE BUCHANAN COUNTY PUBLIC SCHOOLS EARMARKED FOR  
SCHOOL BUSES**

Craig Stiltner, Rocklick District Supervisor stated the school system is needing buses and Carter Machinery is offering the 2016 Blue Bird 65 Passenger Diesel Powered School Buses at \$75,250 each. The school system is needing six (6) buses.

Mr. Stiltner made a motion to appropriate \$451,500 to Buchanan County School System earmarked for the purchase of six (6) new buses from Carter Machinery. With no second to his motion, Mr. Stiltner change his motion for an additional appropriation in the amount of \$301,000 for the purchase of four (4) new buses from Carter machinery for Buchanan County Public School, with no second to his motion, Mr. Stiltner requested a roll call vote of three (3) yeas, Craig Stiltner, G. Roger Rife, J. Carroll Branham and four (4) nays, Harold H. Fuller, William P. Harris, Earl Scott and Trey Adkins, the motion failed.

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**IN RE: CONSIDER APPROVING TO ADVERTISE FOR THE  
CONSTRUCTION TO PREPARE THE WATKINS BRANCH SITE**

After a general discussion by the board upon motion by Harold H. Fuller seconded by Trey Adkins and with the following roll call vote of seven (7) yeas, Harold H. Fuller, Trey Adkins, Earl Scott, William P. Harris, G. Roger Rife, J. Carroll Branham, Craig Stiltner and zero (0) nays, this board did hereby approve to advertise for the construction to prepare the Watkins Branch site for the construction of the government center as per the site design prepared by Terra Tech. However, such construction cannot commence until the property for the site has been acquired by the County.

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**IN RE: CONSIDER RATIFYING PART-TIME EMPLOYEES**

After a general discussion by the board upon motion by Trey Adkins seconded by Harold H. Fuller and with the following roll call vote of seven (7) yeas, Harold H. Fuller, Trey Adkins, Earl Scott, William P. Harris, G. Roger Rife, J. Carroll Branham, Craig Stiltner and zero (0) nays, this board did hereby approve following list of part-time employees:

**HURRICANE**

Timothy Osborne

**NORTH GRUNDY**

Cody Justus

Ethan Owens

Dalton Cox

**SANITATION**

Josh McClanahan

Chris Kelly

Tyler Stiltner

**ATHLETIC FIELD**

Paul Hunt

Logan Woods

**ROCKLICK & KNOX HSB**

Herman Lester

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**IN RE: CONSIDER APPROVING CONTRIBUTIONS**

After a general discussion by the board upon motion by Earl Scott seconded by Trey Adkins and with the following roll call vote of seven (7) yeas, Earl Scott, Trey Adkins, Harold H. Fuller, William P. Harris, G. Roger Rife, Craig Stiltner, J. Carroll Branham and zero (0) nays this board did hereby approve the following contributions:

Knox Creek Fire Dept.	\$7,528.00
Prater Volunteer Rescue Squad	\$2,035.00
J.M. Bevins Elementary School (dryer, refrig. & carpet shampooer)	\$1,327.00
The American Legion	\$1,400.00
Grundy High School (concrete at Enoch's Br)	\$2,500.00
Twin Valley High School (boys basketball camp)	\$1,000.00
Russell Prater Fire Department (Troop 725)	\$81.62

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**IN RE: CONSIDER RATIFYING PAYROLL AFTER REVIEW**

After a general discussion by the board upon motion by Trey Adkins seconded by Harold H. Fuller and with the following roll call vote of seven (7) yeas, Earl Scott, Trey Adkins, Harold H. Fuller, William P. Harris, G. Roger Rife, Craig Stiltner, J. Carroll Branham and zero (0) nays, this board did hereby ratify the payroll after reviewing.

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**IN RE: CONSIDER RATIFYING THE PAYMENT OF BILLS BY RESOLUTION ADOPTED ON JANUARY 9<sup>TH</sup>, 2017. (INCLUDING THE BUCHANAN COUNTY HEAD START RATIFIED BILL LIST AND BILL LIST)**

After a general discussion by the board upon motion by William P. Harris seconded by Earl Scott and with the following roll call vote of seven (7) yeas, Earl Scott, Trey Adkins, Harold H. Fuller, William P. Harris, G. Roger Rife, Craig Stiltner, J. Carroll Branham and zero (0) nays, this board did hereby ratify the payment of bills by Resolution adopted on January 9<sup>th</sup>, 2017. (including the Buchanan County Head Start ratified bill list and bill list)

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**IN RE: CONSIDER APPOINTING BART CHAMBERS AS THE EMERGENCY SERVICES COORDINATOR FOR BUCHANAN COUNTY**

After a general discussion by the board upon motion by Trey Adkins seconded by Harold H. Fuller and with the following roll call vote of seven (7) yeas, Earl Scott, Trey Adkins, Harold H. Fuller, William P. Harris, G. Roger Rife, Craig Stiltner, J. Carroll Branham and zero (0) nays this board did hereby appoint Bart Chambers as the Emergency Services Coordinator for Buchanan County.

**IN RE: CONSIDER APPOINTMENTS TO THE BREAKS REGIONAL AIRPORT AUTHORITY BOARD OF DIRECTORS**

After a general discussion by the board upon motion of Trey Adkins seconded by Harold H. Fuller and with a roll call vote of seven (7) yeas, Earl Scott, Trey Adkins, Harold H. Fuller, William P. Harris, G. Roger Rife, Craig Stiltner, J. Carroll Branham and zero (0) nays, this board did hereby appoint Jay Rife and J. Carroll Branham to the Breaks Regional Airport Authority Board of Directors.

**IN RE: CONSIDER APPROVING THE SOLE SOURCE NOTICE AND RESOLUTION REGARDING THE AWARD AND ACCEPTANCE OF QUOTE TO AIRBUS THROUGH H WIRELESS COMMUNICATIONS, INC. IN THE AMOUNT OF \$18,592.50 REGARDING SOFTWARE INSTALLATION, MAINTENANCE AND SUPPORT FOR THE BUCHANAN COUNTY E-911 OFFICE AS A SOLE SOURCE**

After a general discussion by the board upon motion by Trey Adkins seconded by Harold H. Fuller and with the following roll call vote of seven (7) yeas, Earl Scott, Trey Adkins, Harold H. Fuller, William P. Harris, G. Roger Rife, Craig Stiltner, J. Carroll Branham and zero (0) nays, this board did hereby approve the following regarding the award and acceptance of quote to Airbus through Wireless Communications, Inc. in the amount of \$18,592.50 regarding software installation, maintenance and support for the Buchanan County E-911 Office as a Sole Source:

- Sole Source Notice;
- Resolution.

**NOTICE**

**RE: PENDING AWARD AND APPROVAL OF ACCEPTANCE OF QUOTE TO AIRBUS THROUGH WIRELESS COMMUNICATIONS, INC. AS SOLE SOURCE FOR MANUFACTURER'S SOFTWARE INSTALLATION, MAINTENANCE AND SUPPORT FOR THE BUCHANAN COUNTY E-911 OFFICE**

PLEASE TAKE NOTICE:

- 1) Due to issues of the unavailability of other vendors, it has been determined that Airbus through Wireless Communications, Inc. is the only one source practicably available to provide the manufacturer's software installation, maintenance and support for the Buchanan County E-911 Office; and
- 2) The Buchanan County, Va., Board of Supervisors will consider a Resolution to approve and award the acceptance of quote to Airbus through Wireless Communications, Inc. as the only one source practicably available to provide a contract for the manufacturer's software installation, maintenance and support for the

Buchanan County E-911 Office at its June 15<sup>th</sup>, 2017 Board meeting to be held in the Board of Supervisors meeting room on the bottom floor of the Courthouse in Grundy, Va.

PLEASE CONDUCT YOURSELF ACCORDINGLY.

Issued by directive of the County Administrator this 15<sup>th</sup> day of June, 2017.

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Robert Craig Horn, County Administrator  
Buchanan County, Virginia

### **RESOLUTION**

#### **RE: AIRBUS THROUGH WIRELESS COMMUNICATIONS, INC. AS SOLE SOURCE FOR MANUFACTURER'S SOFTWARE INSTALLATION, MAINTENANCE AND SUPPORT FOR THE BUCHANAN COUNTY E-911 OFFICE**

WHEREAS, prior to the issuance of an invitation to bid, Kenneth Ratliff, the Operations and Maintenance Manager conducted an investigation of potential vendors in regard to the contemplated procurement of the award and approval of acceptance of quote for Manufacturer's Software installation, maintenance and support for the Buchanan County E-911 Office; and

WHEREAS, after a thorough investigation, Kenneth Ratliff has concluded that Airbus through Wireless Communications, Inc. is the only one source practicably available to provide the acceptance of quote for the manufacturer's software installation, maintenance and support for the Buchanan County E-911 Office; and

WHEREAS, Airbus through Wireless Communications, Inc. has provided a quote of \$18,592.50 annually, to be prepaid; and

NOW, THEREFORE BE IT RESOLVED, that the Chairman of the Buchanan County, Va., Board of Supervisors and the County Administrator are hereby authorized to award and approve the acceptance of the quote with Airbus through Wireless Communications, Inc. that provides for the manufacturer's software installation, maintenance and support for the Buchanan County E-911 Office. Be It Furthermore Resolved that the County Administrator is directed to post a Notice as required by Virginia Code Section 2.2-4303(E) in the designated public area and on county website stating that the contract was awarded this day to Airbus through Wireless Communications, Inc. and has been determined to be the only source practicably available for the award and approval of acceptance of quote for the manufacturer's software installation, maintenance and support for the Buchanan County E-911 Office.

This Resolution was adopted on the 15<sup>th</sup> day of June, 2017.

Recorded Vote:

Moved by: Trey Adkins

Seconded by: Harold H. Fuller

Yeas: Seven

Nays: Zero

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J. Carroll Branham, Chairman of the  
Buchanan County, Va. Board of Supervisors

ATTEST:

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Robert Craig Horn, County Administrator

12591

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**IN RE: CONSIDER APPROVING TO ISSUE PAYMENT TO THE BUCHANAN COUNTY PUBLIC SERVICE AUTHORITY IN THE AMOUNT OF \$102,894.75 AND \$408,722.69 FROM THE BUCHANAN COUNTY COAL HAUL ROAD ACCOUNT**

After a general discussion by the board upon motion by Trey Adkins seconded by Harold H. Fuller and with a roll call vote of five (5) yeas, Trey Adkins, Harold H. Fuller, G. Roger Rife, William P. Harris, J. Carroll Branham and two (2) nays, Craig Stiltner and Earl Scott, this board did hereby approve to issue payment to the Buchanan County Public Service Authority in the amount of \$102,894.75 and \$408,722.69 from the Buchanan County Coal Haul Road account.

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**IN RE: CONSIDER APPROVING AGREEMENTS WITH S.E.P.T.I.C., INC. REGARDING THE PILGRIMS KNOB COMMUNITY PARK**

After a general discussion by the board upon motion by Harold H. Fuller seconded by Trey Adkins and with a roll call vote of seven (7) yeas, Craig Stiltner, Earl Scott, Trey Adkins, Harold H. Fuller, G. Roger Rife, William P. Harris, J. Carroll Branham and zero (0) nays, this board did hereby approve the agreements with S.E.P.T.I.C., Inc. regarding the Pilgrims Knob Community Park and to issue payment regarding these agreements from the Garden District account.

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**IN RE: CONSIDER APPROVING TO REQUEST ASSISTANCE IN PURCHASING BEAR RESISTANT TRASH CANS THROUGH THE DEPARTMENT OF GAME AND INLAND FISHERS FOR THE WILLIAM P. HARRIS PARK**

After a general discussion by the board upon motion by William P. Harris seconded by Trey Adkins and with a roll call vote of seven (7) yeas, Craig Stiltner, Earl Scott, Trey Adkins, Harold H. Fuller, G. Roger Rife, William P. Harris, J. Carroll Branham and zero (0) nays, this board did hereby approve to request assistance in purchasing bear resistant trash cans through the Department of Game and Inland Fishers for the William P. Harris Park.

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**IN RE:            CONSIDER APPROVING AN ADDITIONAL BUDGET  
                     APPROPRIATION IN THE AMOUNT OF \$12,400 FOR THE  
                     BUCHANAN COUNTY HEAD START FOR COLA INCREASE OF 1%  
                     OF BASE FUNDING**

After a general discussion by the board upon motion by Trey Adkins seconded by Harold H. Fuller and with a roll call vote of seven (7) yeas, Craig Stiltner, Earl Scott, Trey Adkins, Harold H. Fuller, G. Roger Rife, William P. Harris, J. Carroll Branham and zero (0) nays, this board did hereby approve an additional budget appropriation in the amount of \$12,400 for the Buchanan County Head Start for COLA increase of 1% of base funding.

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**IN RE:            CONSIDER APPROVING AN ADDITIONAL APPROPRIATION TO  
                     THE BUCHANAN COUNTY PUBLIC SCHOOLS EARMARKED FOR  
                     SCHOOL BUSES**

Craig Stiltner, Rocklick District Supervisor stated I'm going to make the motion again to prove an additional appropriation to Buchanan County Public Schools earmarked for school buses. I can't believe this board would allow kids to ride an unsafe school bus. Some of the buses has over 150,000 miles on them.

Upon motion by Craig Stiltner and with no second to his motion and with a roll call vote of five (5) yeas, Craig Stiltner, G. Roger Rife, Earl Scott, J. Carroll Branham, William P. Harris and two (2) nays, Harold H. Fuller and Trey Adkins, this board did hereby approve an additional budget appropriation and transfer of funds in the amount of \$301,000.00 to Buchanan County Public Schools fiscal year 2016/2017 budget earmarked for the purchase of four (4) new school buses.

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**IN RE:            ADJOURNMENT**

Upon motion by Earl Scott seconded by William P. Harris and with a unanimous voice vote by the board, this board did hereby approve to adjourn the meeting.

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J. Carroll Branham, Chairman of the  
Buchanan County Board of Supervisors

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Robert Craig Horn, County Administrator