

AGENDA

Tuesday, October 13, 2015
4:00 PM

4:00 CALL MEETING TO ORDER (Chairman Wade H. Blevins, Jr.)

CLOSED SESSION

Code of Virginia, Section 2.2-3711 – **A.1; Personnel Matters;** Discussion, consideration, or interviews of prospective candidates for employment and **A.3; Real Property Acquisition;** Discussion or consideration of the acquisition of real property for a public purpose and **A.5; Industrial/Business Prospects;** discussion concerning a business or industry considering expansion with no previous announcement being made and **A.7 Legal;** discussion with legal counsel and staff pertaining to actual or probable litigation.

5:00 CALL MEETING TO OPEN SESSION

Invocation and Pledge of Allegiance

ADOPTION OF AGENDA

Adopt the agenda and the additional agenda as presented

MINUTES OF PREVIOUS MEETINGS

Request adoption of the September 3rd and September 8th, 2015 Meetings.

FINANCIAL UPDATE

Michael Carter – Inform the Board of the County's financial status

PAYMENT OF INVOICES

Consideration of appropriations and accounts payable as listed on the additional agenda.

5:15 CITIZENS TIME

5:30 COIA Presentation- Michelle Clayton

NEW BUSINESS

***Planning Commission Recommendation- Michael Carter**

***CCJB Approval- Michael Carter**

***Grant Agreement/Back of the Dragon Overlook- Lori Hester**

OLD BUSINESS

1. Collection of delinquent taxes. **(8-10-04)**
2. Financial Discussion. **(7-9-13)**

3. Mega-Site Project (**11-17-11**)

Supervisor Comment Time

Meeting reminders:

The Smyth County Board of Supervisors held a Special Called meeting at 3:45 p.m., **Thursday, September 3, 2015**. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

PRESENT: Chairman, Chilhowie District Supervisor Wade H Blevins, Jr.; Vice Chair, Park District Supervisor M. Todd Dishner; North Fork District Supervisor Ron C Blevins; Atkins District Supervisor J. Howard Burton; Saltville District Supervisor Roscoe D Call (5)

ABSENT: Rye Valley District Supervisor Rick K Blevins; Royal Oak District Supervisor G. Blake Frazier (2)

STAFF: County Administrator Michael Carter; Assistant County Administrator Scott Simpson; County Attorney Michelle Clayton; Administrative Assistant Kelly Woods (4)

3:48:14 PM Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr. called the meeting to order.

3:48:18 PM Michelle Clayton, County Attorney advised the Board the meeting being held was in regards to temporarily moving the West Park Voting Precinct 402 from the Smyth County Courthouse, 109 West Main Street, Marion, Virginia to the Wayne C. Henderson School of Arts, 203 North Church Street, Marion, Virginia, due to the Courthouse construction. The proposed relocation will be done as an Emergency Ordinance as shown below.

EMERGENCY ORDINANCE

AN EMERGENCY ORDINANCE TO AMEND AND REORDAIN CHAPTER 17, ELECTIONS, OF THE CODE OF THE COUNTY OF SMYTH COUNTY, VIRGINIA, BY AMENDING ARTICLE IV, PRECINCTS, SECTIONS 17-67 (4)(b), POLLING PLACES; PRECINCT BOUNDARIES FOR A PERIOD OF SIXTY (60) DAYS

WHEREAS, the Board of Supervisors (the "Board") of the County of Smyth, Virginia (the "County") upon the request of the Smyth County Board of Elections has been asked to approve moving a polling precinct for the November 3, 2015 election; and

WHEREAS, §15,2-1427(F) Code of Virginia, (1950), as amended, provides that counties may adopt an emergency ordinance without prior notice; however, no such ordinance shall be enforced for more than sixty (60) days; and

WHEREAS, pursuant to Virginia Code §24.2-306, the Virginia State Board of Elections may approve relocation of polling places within 60 days of a general election; and

WHEREAS, the Voter Registrar has determined that due to ongoing construction the current accessibility to the voting machines at the Smyth County Courthouse will be inadequate for voters on the Election Day of November 3, 2015; and

WHEREAS, a more suitable temporary location at a school has been located that is one block away from the Courthouse and has sufficient parking available; and

WHEREAS, the Voter Registrar will provide, as required by Section 24.2-306 of the Code of Virginia, (1950), as amended, notice of the relocation by mail to registered voters in the West Park Precinct at least fifteen (15) days prior to the next general election; and

WHEREAS, there are more than sixty (60) days before the next general election and pursuant to §24.2-306 of the Code of Virginia, notice of the proposed change of location was published two successive weeks prior to adoption; and

WHEREAS, the Voter Registrar agrees to provide additional signage at the Courthouse to direct voters to the new temporary location at the Wayne Henderson School of Appalachian Arts.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of the County of Smyth County, Virginia:

1. THAT Chapter 17, Elections, is hereby amended and reordained for 60 days by inserting the language shown underlined at Section 17-67(4)(b), Polling Places; Precinct Boundaries as follows:

CHAPTER 17 - ELECTIONS
ARTICLE IV. Precincts

Sec. 17-67. Polling places; precinct boundaries.

The precincts for each county election district and the polling place for each precinct be as follows:

(4) *Election District 4-01.*

b. West Park Precinct: At the ~~Smyth County Courthouse~~ Wayne Henderson School of Appalachian Arts at Marion, Virginia located at 203 North Church Street, Marion, Virginia.

2. THAT this Emergency Ordinance shall become effective for 60 days on September 8, 2015.

On motion by _____, seconded by _____, the foregoing Resolution was adopted by a majority of the members of the Board of Supervisors present at a special meeting of the Board of Supervisors duly called and held on September 4, 2015.

Adopted this 3th day of September, 2015.

By: _____
Wade H. Blevins, Jr., Chairman
Smyth County Board of Supervisors

Saltville District Supervisor Roscoe D. Call made a motion to approve the Emergency Ordinance as presented. Park District Supervisor M. Todd Dishner seconded the motion.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins and
Saltville District Supervisor Roscoe D. Call.

NAYS: None.

ABSTAINERS: None.

ABSENT: Rye Valley District Supervisor Rick K. Blevins and
Royal Oak District Supervisor G. Blake Frazier.

3:49:06 PM Saltville District Supervisor Roscoe D. Call made a motion to adjourn the meeting. North Fork District Supervisor Ron C. Blevins seconded the motion.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins and
Saltville District Supervisor Roscoe D. Call.

NAYS: None.

ABSTAINERS: None.

ABSENT: Rye Valley District Supervisor Rick K. Blevins and
Royal Oak District Supervisor G. Blake Frazier.

The Smyth County Board of Supervisors held its regular meeting at 4:00 p.m., Tuesday, September 8, 2015. The location of the meeting was in the First Floor Board Room of the County Office Building, 121 Bagley Circle, Suite 100, Marion, Virginia.

PRESENT: Chairman, Chilhowie District Supervisor Wade H Blevins, Jr.; Vice Chair, Park District Supervisor M. Todd Dishner; Rye Valley District Supervisor Rick K Blevins; North Fork District Supervisor Ron C Blevins; Atkins District Supervisor J. Howard Burton; Saltville District Supervisor Roscoe D Call (6)

ABSENT: Royal Oak District Supervisor G. Blake Frazier (1)

STAFF: County Administrator Michael Carter; Assistant County Administrator Scott Simpson; County Attorney Michelle Clayton; Administrative Assistant Kelly Woods; Director Community & Economic Development Lori Hester (5)

4:05:20 PM Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. called the meeting to order.

A motion was made by Ron C. Blevins, seconded by Park District Supervisor M. Todd Dishner to enter into closed session under Code of Virginia, Section 2.2-3711-A.1 Personnel; A.3 Land Acquisition; A.5; Industrial/Business Prospects; discussion concerning a business or industry considering expansion with no previous announcement being made; and A.7 Legal; discussion with legal counsel and staff pertaining to actual or probable litigation.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Rye Valley District Supervisor Rick K. Blevins,
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins and
Saltville District Supervisor Roscoe D. Call.

NAYS: None.

ABSTAINERS: None.

ABSENT: Royal Oak District Supervisor G. Blake Frazier.

4:09:00 PM Royal Oak District Supervisor G. Blake Frazier entered the meeting.

5:01:04 PM Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. called the meeting to order from closed session.

It was moved by Rye Valley District Supervisor Rick K. Blevins, seconded by North Fork District Supervisor Ron C. Blevins to adopt the following Resolution certifying the business conducted in Closed session as follows:

RESOLUTION
CERTIFICATION OF CLOSED SESSION

WHEREAS, the Smyth County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the Smyth County Board of Supervisors that such a meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED the Smyth County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Smyth County Board of Supervisors.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Rye Valley District Supervisor Rick K. Blevins,
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins,
Saltville District Supervisor Roscoe D. Call and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:01:41 PM Lori Hester, Director of Community and Economic Development gave the Invocation and Michael Carter, County Administrator led the Pledge of Allegiance.

5:02:32 PM A motion was made by Rye Valley District Supervisor Rick K. Blevins to adopt the Agenda and Additional Agenda. North Fork District Supervisor Ron C. Blevins seconded the motion.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Rye Valley District Supervisor Rick K. Blevins,
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins,
Saltville District Supervisor Roscoe D. Call and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:03:04 PM It was moved by Rye Valley District Supervisor Rick K. Blevins, seconded by North Fork District Supervisor Ron C. Blevins to approve the minutes of the August 11th and August 26th meetings.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Rye Valley District Supervisor Rick K. Blevins,
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins,
Saltville District Supervisor Roscoe D. Call and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:03:27 PM Michael Carter, County Administrator presented the Board with information on the current FY15-16 budget and a current month analysis for appropriations.

5:09:45 PM It was moved by Saltville District Supervisor Roscoe D. Call, seconded by North Fork District Supervisor Ron C. Blevins to appropriate \$1,861,017.00 from the General Fund. The following is an explanation of the appropriations approved:

General County:	\$675,000.00
Aid to the Commonwealth:	\$12,964.78
Social Services (September 9-September 30, 2015)	\$315,000.00
(October 1-October 13, 2015)	\$60,000.00
Schools-Operating Fund	
Instruction	\$468,591.00
Administration, Attendance & Health	\$0.00
Transportation	\$29,368.00
Facilities	\$113,515.00
School Food Service	\$128,923.00
Technology	\$60,620.00
School Debt and Capital Outlay	
Debt Service	\$10,000.00
Total General Fund:	\$1,861,017.00

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Rye Valley District Supervisor Rick K. Blevins,
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins,
Saltville District Supervisor Roscoe D. Call and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.
ABSTAINERS: None.
ABSENT: None.

It was moved by Saltville District Supervisor Roscoe D. Call seconded by Park District Supervisor M. Todd Dishner to appropriate \$615,566.84 for the Courthouse Project.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Rye Valley District Supervisor Rick K. Blevins,
Atkins District Supervisor J. Howard Burton,
Saltville District Supervisor Roscoe D. Call and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: North Fork District Supervisor Ron C. Blevins
ABSTAINERS: None.
ABSENT: None.

It was moved by Saltville District Supervisor Roscoe D. Call seconded by North Fork District Supervisor Ron C. Blevins to appropriate \$154,803.99 from Commonwealth Attorney Fund 760 for outstanding invoices.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Rye Valley District Supervisor Rick K. Blevins,
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins,
Saltville District Supervisor Roscoe D. Call and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.
ABSTAINERS: None.
ABSENT: None.

It was moved by Saltville District Supervisor Roscoe D. Call seconded by North Fork District Supervisor Ron C. Blevins to appropriate \$5,481.03 from Sheriff Fund 748 for outstanding invoices.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Rye Valley District Supervisor Rick K. Blevins,
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins,
Saltville District Supervisor Roscoe D. Call and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.
ABSTAINERS: None.
ABSENT: None.

It was moved by Saltville District Supervisor Roscoe D. Call, seconded by North Fork District Supervisor Ron C. Blevins to appropriate \$630,700.27 for the Accounts Payable listing.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Rye Valley District Supervisor Rick K. Blevins,
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins,
Saltville District Supervisor Roscoe D. Call and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:12:28 PM Saltville District Supervisor Roscoe D. Call made a motion to approve the Konnarock-Green Cove Community festival permit application. North Fork District Supervisor Ron C. Blevins seconded the motion. It was noted by Mr. Carter the application fee has been received and all paperwork is in order.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
North Fork District Supervisor Ron C. Blevins,
Atkins District Supervisor J. Howard Burton,
Saltville District Supervisor Roscoe D. Call
Rye Valley District Supervisor Rick K. Blevins and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:13:27 PM Michael Carter, County Administrator presented a letter of support for the EMS Council as Shown below.

Southwest Virginia EMS Council
Attn: Gregory Woods
306 Piedmont Avenue
Bristol, VA 24201

Dear Mr. Woods:

The Board of Supervisors of Smyth County has been informed that the Southwest Virginia EMS Council is applying to renew its designation as a regional emergency medical Services council pursuant to sections §32.1, 32.1-111.4, and 32.1-111.11 of the Code of Virginia, and Chapter 31, sections 2300-2380 of the *Virginia Emergency Medical Services Regulations*. I understand that the goal of this process is to obtain continued authorization to

operate and provide the services of a designated regional EMS council

Smyth County supports the Southwest Virginia EMS Council's mission to reduce death and disability resulting from medical and traumatic emergencies in Southwest Virginia and to support the various components of the regional EMS system. We would like to offer our support of their designation application.

The Southwest Virginia EMS Council has served as a regional emergency medical services council since its inception in 1979. The organization has been instrumental in planning, coordinating, and improving the regional EMS delivery system. The organization provides valuable services to EMS stakeholders in our region (including EMS system planning, coordination, and training), and the Council Board of Directors includes representation from all sixteen jurisdictions in their proposed service area in Southwest Virginia.

We look forward to continuing our work with the Southwest Virginia EMS Council, as well as our other community partners, to ensure health and safety for our jurisdiction. If you have any questions, I can be reached at 276-783-3298 ext. 8301 or mcarter@smythcounty.org.

Sincerely,

Michael Carter,
County Administrator

Saltville District Supervisor Roscoe D. Call made a motion to approve the letter as presented and to allow Michael Carter to sign. North Fork District Supervisor Ron C. Blevins seconded the motion.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
North Fork District Supervisor Ron C. Blevins,
Atkins District Supervisor J. Howard Burton,
Saltville District Supervisor Roscoe D. Call
Rye Valley District Supervisor Rick K. Blevins and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:14:37 PM Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. opened Citizen's time.

5:14:54 PM With no one wishing to speak, Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. closed citizen's time.

5:15:14 PM Dr. Dean Sprinkle, Wytheville Community College President introduced himself to the Board and stated the he along with WCC staff looked forward to working with the County and appreciates their continued support.

5:20:10 PM Lori Hester, Director of Community and Economic Development presented a Performance Agreement for Qore Systems as shown below.

Commonwealth's Development Opportunity Fund
Qore Systems, LLC Performance Agreement
COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND
PERFORMANCE AGREEMENT

This PERFORMANCE AGREEMENT is made and entered this ____ day of July, 2015, ("Effective Date") by and among the SMYTH-WASHINGTON INDUSTRIAL FACILITIES AUTHORITY (the "Authority"), a political subdivision of the Commonwealth of Virginia (the Commonwealth), QORE SYSTEMS, LLC (the "Company"), an Arizona limited liability company authorized to transact business in the Commonwealth, the COUNTY OF WASHINGTON, VIRGINIA ("Washington County"), a political subdivision of the Commonwealth, and the COUNTY OF SMYTH, VIRGINIA ("Smyth County"), a political subdivision of the Commonwealth.
WITNESSETH:

WHEREAS, Washington County has been awarded a grant of and expects to receive \$500,000 from the Commonwealth's Development Opportunity Fund (a "COF Grant") through the Virginia Economic Development Partnership Authority ("VEDP") for the purpose of inducing the Company to construct, equip, and operate a manufacturing, distribution, and office facility (the "Facility") in the Authority's industrial park, Highlands Business Park, which is located in Washington County, thereby making a significant Capital Investment, and creating and Maintaining a significant number of New Jobs, as such capitalized terms are hereinafter defined;

WHEREAS, Washington County and Smyth County are the member jurisdictions of the Authority ("Member Jurisdictions"), and their governing bodies support the provision of economic incentives to the Company, provided that the Company promises to meet certain criteria relating to Capital Investment and New Jobs; WHEREAS, the Authority, in the interest of enhancing the economic base for its Member Jurisdictions by supporting location of the Company in Highlands Business Park, is willing to administer, for the benefit of the Company, the COF Grant funds that Washington County anticipates receiving;

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

WHEREAS, the construction, equipping, and operation of the Facility will entail a capital expenditure of approximately \$12,800,000, of which approximately \$10,200,000 will be invested in machinery and equipment, and approximately \$2,600,000 will be invested in the construction of a new building;

WHEREAS, the construction, equipping, and operation of the Facility will further entail the creation and Maintenance of 140 New Jobs at the Facility; and

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

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

Section 1. Definitions.

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

"Capital Investment" means a capital expenditure by or on behalf of the Company in taxable real property, taxable tangible personal property, or both, at the Facility, excluding existing real property improvements. The Capital Investment must be in addition to the capital improvements at the Facility as of May 1, 2015. A capital expenditure related to a leasehold interest in real property will be considered to be made "on behalf of the Company" if a lease between a developer and the Company is a capital lease, or is an operating lease having a term of at least ten years, and the real property would not have been constructed or improved but for the Company's interest in leasing some or all of the real property. Only the capital expenditures allocated to the portion of the real property to be leased by the Company will count as "Capital Investment." The purchase or lease of furniture, fixtures, machinery, and equipment, including under an operating lease, by or on behalf of the Company will qualify as Capital Investment.

"Maintain" means that the New Jobs created pursuant to the COF Grant will continue without interruption from the date of creation through the Performance Date. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) temporary reductions in the Company's employment levels (so long as there is active recruitment for open positions), (ii) strikes and (iii) other temporary work stoppages.

"New Job" means new permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are paid by the Company for the employee, and for which the Company pays an average annual wage of at least \$45,000. Each New Job must require a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the Company's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with Commonwealth's Development Opportunity Fund construction contractors, vendors, suppliers, and similar multiplier or spin-off jobs shall not qualify as New Jobs. Net new jobs in the Commonwealth for contractors or employees of contractors who provide dedicated full-time service to the Company may count as New Jobs, even though the Company is not directly paying the wages or providing the fringe benefits, if the other conditions set forth in this paragraph have been satisfied.

"Performance Date" means December 31, 2018. If the Authority, after consultation with the Member Jurisdictions and VEDP, deems that good faith and reasonable efforts have been made and are being made by the Company to achieve the Targets, the Authority may agree to extend the Performance Date by up to 15 months. If the Performance Date is extended, the Authority shall send written notice of the extension to the Member Jurisdictions, the Company and VEDP and the date to which the Performance Date has been extended shall be the Performance Date for the purposes of this Agreement.

"Targets" means the Company's obligations to make Capital Investments at the Facility of at least \$12,800,000 and to create and maintain at least 140 New Jobs at the Facility, all as of the Performance Date.

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

Section 2. Targets; Statutory Criteria.

The Company will construct, equip, and operate the Facility, make a Capital Investment of at least \$12,800,000, and create and maintain at least 140 New Jobs at the Facility, all as of the Performance Date. The Company shall make best efforts to ensure that at least 30% of the New Jobs are offered to "Residents" of the Commonwealth, as defined in Virginia Code Section 58.1-302. In pertinent part, that definition includes natural persons domiciled in Virginia or natural persons who, for an aggregate of more than 183 dates of the year, maintained a place of abode within the Commonwealth, whether domiciled in the Commonwealth or not.

The average annual wage of the New Jobs of at least \$45,000 is more than the prevailing average annual wage in Washington County of \$36,113. Washington County is a high-unemployment locality, with an unemployment rate for 2014, which is the last year for which such data is available, of 5.7% as compared to the 2014 statewide unemployment rate of 5.2%. Washington County is a high-poverty locality, with a poverty rate for 2013, which is the last year for which such data is available, of 14.9% as compared to the 2013 statewide poverty rate of 11.7%.

Section 3. Disbursement of COF Grant.

By no later than October 31, 2015, Washington County will request disbursement of the COF Grant to Washington County. If not so requested by Washington County by October 31, 2015, this Agreement will terminate. Washington County and the Company will be entitled to reapply for a COF Grant thereafter, based upon the terms, conditions and availability of funds at that time.

The COF Grant in the amount of \$500,000 will be paid upon request to Washington County. Within 30 days of its receipt of COF Grant proceeds, Washington County will disburse the COF Grant proceeds to the Authority. Within 30 days of its receipt of the COF Grant proceeds, the Authority will disburse the COF Grant proceeds to the Company as an inducement to the Company to achieve the Targets at the Facility. The Company will use the COF Grant proceeds for site acquisition, grading, drainage, paving and any other activity required to prepare a site for construction, as permitted by Section 2.2-115(D) of the Virginia Code.

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

VEDP has estimated that the Commonwealth will reach its "break-even point" by the Performance Date. The break-even point compares new revenues realized as a result of Capital Investment and New Jobs at the Facility with the Commonwealth's expenditures on incentives, including but not limited to the COF Grant. With regard to the Facility, the Commonwealth expects to provide incentives in the following amounts:

Category of Incentive:

Total Amounts

COF Grant

\$500,000

Virginia Jobs Investment Program ("VJIP") (Estimated)

112,000

Tobacco Region Opportunity Fund Grant ("TROF Grant") (Estimated)

420,000

Port of Virginia Economic and Infrastructure Development Zone Grant ("Port Grant") (Estimated)

420,000

Enterprise Zone Job Creation Grant ("E. Z. Job Creation Grant") (Estimated)

500,000

Enterprise Zone Real Property Improvement Grant ("E. Z. Real Property Improvement Grant") (Estimated)
100,000

Commonwealth's Development Opportunity Fund

Qore Systems, LLC Performance Agreement Page 5 of 9

The Authority expects to provide the following incentive, as a matching grant or otherwise, for the Facility:

Category of Incentive:

Total Amount

Authority Grant

\$400,000

Allocation of TROF Grant

100,000

The proceeds of the COF Grant shall be used for the purposes described in Section 3. The VJIP proceeds shall be used by the Company to pay or reimburse itself for recruitment and training costs. The proceeds from the TROF Grant shall be used for purpose(s) as designated in the Performance Agreement for TROF Grant funding. The Port Grant, the E. Z. Job Creation Grant, and the E.Z. Real Property Improvement Grant proceeds may be used by the Company for any lawful purpose. The proceeds of the Authority Grant may be used by the Company for any lawful purpose.

Section 5. Repayment Obligation.

(a) If Statutory Minimum Eligibility Requirements are Not Met: Section 2.2-115 of the Virginia Code requires that the Company make a Capital Investment of at least \$1,500,000 in the Facility and create and Maintain at least 15 New Jobs at the Facility in order to be eligible for the COF Grant. Failure by the Company to meet either of these statutory minimum eligibility requirements by the Performance Date shall constitute a breach of this Agreement and the entire COF Grant must be repaid by the Company to the Authority.

(b) If Statutory Minimum Eligibility Requirements are Met: The provisions of this subsection (b) shall become applicable only if the Company has met the statutory minimum eligibility requirements set forth in subsection (a). For purposes of repayment, the COF Grant is to be allocated as \$250,000 (50%) for the Company's Capital Investment Target and \$250,000 for its New Jobs Target. Except as noted in subsection c below, if the Company has met at least 90% of both of the Targets at the Performance Date, then and thereafter the Company is no longer obligated to repay any portion of the COF Grant. If the Company has not met at least 90% of either or both its Targets at the Performance Date, the Company shall repay the Authority that part of the COF Grant that is proportional to the Target or Targets for which there is a shortfall. For example, if at the Performance Date, the Capital Investment is only \$10,240,000 (reflecting achievement of 80% of the Capital Investment Target) and only 112 New Jobs have been created and Maintained (reflecting achievement of only 80% of the New Jobs Target), the Company shall repay the Authority 20% of the moneys allocated to the Capital Investment Target (\$50,000) and 20% of the moneys allocated to the New Jobs Target (\$50,000).

(c) Determination of Inability to Comply: If the Authority, after consultation with the Member Jurisdictions, or VEDP shall determine at any time prior to the Performance Date (a Commonwealth's Development Opportunity Fund "Determination Date") that the Company is unable or unwilling to meet and Maintain its Targets by and through the Performance Date, and if the Authority or VEDP shall have notified the Company of such determination, the Company must repay the entire COF Grant to the Authority. Such a determination will be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of

the Facility by the Company or other similar significant event that demonstrates the Company will be unable or is unwilling to satisfy the Targets for the COF Grant.

(d) Repayment Dates: Such repayment shall be due from the Company to the Authority within ninety days of the Performance Date or the Determination Date, as applicable. Any moneys repaid by the Company to the Authority hereunder shall be repaid by the Authority to Washington County and shall be repaid by Washington County promptly to VEDP for redeposit into the Commonwealth's Development Opportunity Fund. The Authority and the Member Jurisdictions shall use their best efforts to recover such funds, including legal action for breach of this Agreement. Neither the Authority nor either Member Jurisdiction shall have any responsibility for the repayment of any sums hereunder unless said sums have been received by the Authority from the Company.

Section 6. Company Reporting.

The Company shall provide, at the Company's expense, detailed verification reasonably satisfactory to the Authority, the Member Jurisdictions, and VEDP of the Company's progress on the Targets. Such process reports shall be provided annually, starting on October 31, 2016 and covering the period through the prior 12-month period. Further, the Company shall provide such progress reports at such other times as the Authority, the Member Jurisdictions, or VEDP may reasonably require. If the Company wishes to include in its accounting of New Jobs the employees of contractors, to the extent permitted in the definition of New Jobs in Section 1, the Company is responsible to provide to the Authority such documentation as required by VEDP to verify such New Jobs, including whether such jobs are New Jobs in the Commonwealth. If the Company wishes to count as Capital Investments the capital expenditures made on its behalf by a lessor or a developer of the Facility, the Company is responsible to provide to the Authority the documentation required by VEDP to verify the capital expenditures made on behalf of the Company.

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

The Company hereby authorizes the Office of the Commissioner of the Revenue for Washington County to release to VEDP the Company's real estate tax, business personal property tax and machinery and tools tax information. Such information shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the Capital Investment Target.

Section 7. Notices.

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

If to the Company, to: with a copy to:

Qore Systems, LLC Qore Systems, LLC

60 East Rio Salado Parkway, Suite 900 60 East Rio Salado Parkway, Suite 900

Tempe, Arizona 85281 Tempe, Arizona 85281

Facsimile: Facsimile:

Email: bob@ntsinc.net Email: kyle.blackwell@qore24.com

Attention: Bob Newberry, Managing Member Attention: Kyle Blackwell, V.P. of Sales

If to Washington County, to: with a copy to:

Washington County Washington County

1 Government Center Place, Suite A 1 Government Center Place, Suite A

Abingdon, Virginia 24210 Abingdon, VA 24210

Facsimile: 276-525-1309 Facsimile: 276-525-1309

Email: jberry@washcova.com Email: wbonham@washcova.com

Attention: County Administrator Attention: Economic Development Director

If to the Authority, to: with a copy to:

Smyth-Washington Ind. Facilities Authority Smyth-Washington Ind. Facilities Authority

1021 Terrace Drive 1021 Terrace Drive

Marion, Virginia 24354 Marion, VA 24354

Facsimile: 276.783.6949 Facsimile: 276.783.6949

Email: asizemore@mrpd.org Email: hldean45@comcast.net

Attention: SWIFA-Coordinator Attention: SWIFA- Chair

If to VEDP, to: with a copy to:

Virginia Economic Development Partnership Virginia Economic Development Partnership

901 East Byrd Street, 19th Floor 901 East Byrd Street, 19th Floor

Post Office Box 798 (zip: 23218-0798) Post Office Box 798 (zip: 23218-0798)

Richmond, VA 23219 Richmond, VA 23219

Facsimile: 804.545.5611 Facsimile: 804.545.5611

Email: mbriley@yesvirginia.org Email: smcninch@yesvirginia.org

Attention: President & CEO Attention: General Counsel

If to Smyth County, to:

Smyth County Virginia

121 Bagley Circle, Suite 100

Marion, VA 24354

Facsimile: 276.783.9314

Email: lhester@smythcounty.org

Attention: Economic Development Director

Section 8. Miscellaneous.

(a) Entire Agreement; Amendments: This Agreement constitutes the entire agreement between the parties hereto as to the COF Grant and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Authority, the Member Jurisdictions, and VEDP.

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

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

(d) Severability: If any provision of this Agreement is determined to be unenforceable, invalid, or illegal, then the enforceability, validity, and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

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

IN WITNESS WHEREOF, the parties hereto have executed this Performance Agreement as of the Effective Date written above.

SMYTH-WASHINGTON REGIONAL
INDUSTRIAL FACILITIES AUTHORITY

By, Harry Dean
Its Chairman
COUNTY OF WASHINGTON, VIRGINIA

By, Phil McCall
Its Chairman of Board of Supervisors
QORE SYSTEMS, LLC

By, Bob Newberry
Its Managing Member
COUNTY OF SMYTH, VIRGINIA

By, Wade H. Blevins, Jr.
Its Chairman of Board of Supervisors

North Fork District Supervisor Ron C. Blevins made a motion to approve the Performance Agreement as presented and to allow Chairman of the Board, Wade H. Blevins Jr. to sign. Royal Oak District Supervisor G. Blake Frazier seconded the motion.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner
Rye Valley District Supervisor Rick K. Blevins,
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins,
Saltville District Supervisor Roscoe D. Call and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.
ABSTAINERS: None.
ABSENT: None.

5:21:49 PM Michelle Clayton, County Attorney presented a Contract with BVU for services to be used at the Courthouse as shown below.

**SMYTH COUNTY, VIRGINIA
ADMINISTRATIVE TELEPHONE SYSTEMS
CONTRACT FOR SERVICES AND EQUIPMENT**

This Contract for Services ("Contract") is entered into this 8th day of September, 2015, between the **COUNTY OF SMYTH, VIRGINIA** ("County"), a political subdivision of the Commonwealth of Virginia, and **BVU AUTHORITY**, ("Contractor") a political subdivision of the Commonwealth of Virginia ("Contractor").

RECITALS

WHEREAS, Smyth County advertised Requests for Proposals for Administrative Telephone Systems on March 15, 2015 and March 22, 2015;

WHEREAS, proposals were submitted to the Smyth County Administrator's Office by 5:00 p.m. on Friday, April 10, 2015;

WHEREAS, BVU Authority submitted a proposal on April 10, 2015 that was among three proposals presented to the Smyth County Courthouse Committee on May 21, 2015;

WHEREAS, BVU Authority and Smyth County, after competitive negotiation, agreed to a price on the purchase and provisioning of an administrative telephone system for Smyth County;

WHEREAS, the County Courthouse Committee voted on July 14, 2015 to recommend the bid of BVU Authority to the Board of Supervisors:

WHEREAS, the Smyth County Board of Supervisors approved an award of the contract to BVU Authority for the administrative telephone system at its regular meeting on July 14, 2015.

GENERAL TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, covenants, and conditions herein contained, the County and Contractor hereby enter into this Contract subject to the terms and conditions stated herein.

1. CONTRACT DOCUMENTS:

a. Contractor agrees to provide services in full and complete accordance with the shown, noted, described and reasonable implied requirements of the attached exhibits, which are hereby incorporated and made a part of this Contract as if fully set out herein:

- i.) Contract for Services dated September 8, 2015 (Appendix A)
- ii.) BVU Services Agreement dated August 14, 2015 and Amendments (Appendix B)

- iii.) Bid from BVU Authority dated April 10, 2015 (Appendix C)
- iv.) RFP- Administrative Telephone System dated March 15, 2015 (Appendix D)

- b. These General Terms and Conditions in this document shall apply in all instances. In the event there is a conflict between any of the General Terms and Conditions and other provisions in the documents above, this Contract for Services shall apply. All time limits stated in the Contract Documents, including but not limited to the time for completion of the work, are of the essence of the contract.
- c. Anything called for by one of the Contract Documents and not called for by the others shall be of like effect as if required or called for by all, except that a provision clearly designed to negate or alter a provision contained in one or more of the other Contract Documents shall have the intended effect.
- d. The Contract Documents represent the entire understanding between County and Contractor in respect to the project and may only be modified in writing signed by both County and Contractor.
- e. The undersigned, hereby declares that the only person or persons interested in this proposal as principal or principals is or are named herein and that no other person or firm herein mentioned has any interest in this contract; that this is made without connection with any other person or company or parties making a contract; and that it is in all respects fair and in good faith without collusion or fraud.
- f. The undersigned further declares that they have examined the specifications of the services, and informed themselves fully in regard to all the conditions pertaining to the services; that they have examined the specifications relative thereto, and have read all special provisions furnished prior to the signing of this contract; that they have satisfied themselves relative to the service to be provided.
- g. The undersigned agrees to furnish all necessary services necessary to complete this Contract to the full and entire satisfaction of Smyth County, with the definite understanding that no money will be allowed for extra work except as set forth in the attached fee proposal for the sum reflected below:

2. INSURANCE:

Contractor shall maintain insurance coverage during the entire term of the contract and all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission. The Contractor shall provide proof of insurance to the County.

3. MINIMUM INSURANCE COVERAGES AND LIMITS:

- a. Workers' Compensation –
 - i. Statutory requirements and benefits.
 - ii. Employers Liability
 - 1. Bodily Injury by Accident - \$100,000 each accident
 - 2. Bodily Injury by Disease - \$500,000 policy limit
 - 3. Bodily Injury by Disease - \$100,000 for each employee
- b. General Liability - \$1,000,000 per occurrence. If the liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following

additional conditions. The limits of liability and the extensions to be included as described previously in these provisions, remain the same.

- c. Auto Liability - \$1,000,000 per occurrence.
- d. The Contractor must either:
 - i. Agree to provide certificates of insurance evidencing the above coverage for a period of two (2) years after final payment for the Agreement for General Liability policies. This certificate shall evidence a "retroactive date" no later than the beginning of the Offeror's work under this Agreement, or
 - ii. Purchase the extended reporting period endorsement for the policy or policies in force during the term of this Agreement and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.
- e. The County shall be named as an additional insured on all the policies (by endorsement and as evidenced by a certificate of insurance).
- f. The Contractor shall hold harmless and indemnify the County and its officers, officials, employees and agents against any and all injury, loss or damage arising out of the Contractor's negligent or intentionally wrongful acts or omissions.

4. WARRANTY:

All materials and equipment shall be fully guaranteed against defects in material and workmanship for a minimum period of one year following date of delivery and installation. The Contractor may specify alternative warranty periods with longer terms in their response to this solicitation.

Should any defect be noted by the County, the County will notify the Contractor of such defect or non-conformance. Notification will state either (1) that the Contractor shall replace or correct, or (2) the owner does not require replacement or correction, but an equitable adjustment to the contract price will be negotiated. If the Contractor is required to correct or replace, it shall be at no cost to Smyth County and shall be subject to all provisions of this clause to the same extent as materials initially delivered. If the Contractor fails or refuses to replace or correct the deficiency, the County may have the materials corrected or replaced with similar items and charge the Contractor the costs occasioned thereby or obtain an equitable adjustment in the contract price. Contractor does not waive the right to contest the existence of defective materials or workmanship.

5. SUCCESSORS AND ASSIGNS:

County and Contractor each binds itself and its partners, successors, executors, administrators, and assigns to the other party of the Contract and to the partners, successors, executors, administrators, and assigns of such other party. In respect to all covenants of the Contract, neither County nor Contractor shall assign sublet, or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any office or agent of any public body, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than County and Contractor.

6. MODIFICATION OF THE CONTRACT:

Changes can be made to the Contract in any one of the following ways:

- a. The County may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as the method of packing or shipment and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such change order and shall give the County a credit for any savings.
- b. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
- c. The contract shall not be amended, modified, or otherwise changed except by the written consent of the Contractor and the County given in the same manner and form as the original signing of the contract.

7. CANCELLATION OF CONTRACT:

The County reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the Contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Contractor of the obligation to perform on all outstanding orders issued prior to the effective date of cancellation.

8. DEFAULT:

In case of failure to deliver services in accordance with the contract terms and conditions, the County, after due oral or written notice, should the Contractor fail to remedy the default within 48 hours, may procure them from other sources and hold the Contractor responsible for any additional costs. This remedy shall be in addition to any other remedies which the county may have.

9. NOTICES

All notices shall be sufficient if delivered in person or sent by certified mail to the parties at the following addresses:

For the County

Michael Carter
Smyth County Administrator
121 Bagley Circle, Suite 100
Marion, Virginia 24354

For the Contractor:

George Pickard, Business Sales
BVU Authority
15022 Lee Highway
Bristol, Virginia 24202

10. GOVERNING LAW:

Any legal proceedings arising out of or related to this agreement shall be filed by the parties in the Smyth General District Court or the Smyth County Circuit Court. The Contract shall be governed in all respects by the laws of the Commonwealth of Virginia.

11. LAWS AND REGULATIONS:

The Contractor shall comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work and shall give all notices required thereby.

This Contract and all other contracts and subcontracts are subject to the provisions of Articles 3 and 5, Chapter 4, Title 40.1, Code of Virginia, relating to labor unions and the "right to work." The Contractor and its subcontractors, whether residents or nonresidents of the Commonwealth, who perform any work related to the project shall comply with all of the said provisions.

The provisions of all rules and regulations governing safety as adopted by the Safety Codes Commission of the Commonwealth of Virginia and as issued by the Department of Labor and Industry under Title 40.1 of the Code of Virginia shall apply to all work under this contract. Inspectors from the Department of Labor and Industry shall be granted access to the work for inspection without first obtaining a search warrant from the court.

12. SEVERABILITY:

If any term or provision of this Contract shall be held invalid or unenforceable to any extent, the remainder of this Contract shall not be affected thereby, and each term and provision of this Contract shall be enforced to the fullest extent permitted by law.

13. PAYMENT:

a. Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the County purchase order number and the Contractor's federal employer identification number.

b. All payment terms are to be considered net forty five (45) days after the invoice or delivery, whichever occurs last.

c. If the Contractor performs all of the obligations of the contract to the satisfaction of the County, the County shall pay the Contractor for the performance of the work in the manner and within the time specified in the contract documents, which shall be consistent with the provisions in § 2.2-4352 and § 2.2-4354 of the *Code of Virginia*.

14. TAXES:

The County is exempt from payment of Federal Excise Tax and State and Local Sales and Use Tax on all tangible personal property purchased or leased by Smyth County for its use or consumption. Tax exemption certification will be furnished upon request.

15. AUDIT:

The Contractor agrees to retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the County, whichever is sooner. The County, its authorized agents, and/or County auditors shall have full access to and the right to examine said materials during this period.

16. ETHICS IN PUBLIC CONTRACTING:

Contractor hereby certifies that it has familiarized itself with Article 6 of the Virginia Public Procurement Act, Sections 2.2-4367 through 2.2-4377 of the Code of Virginia (1950) as amended, and that all amounts received or disbursed by it, pursuant to this procurement, are proper and in accordance therewith.

17. EMPLOYMENT DISCRIMINATION:

a. Contractor shall conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA). In any contract between the County and a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. In every contract over \$10,000, the provisions in i and ii below apply:

b. During the performance of this contract, the contractor agrees as follows:

- i. The contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any 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 non-discrimination 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, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

c. The contractor will include the provisions of i. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

18. IMMIGRATION:

The Contractor agrees that he does not and shall not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

19. DRUG-FREE WORKPLACE:

During the performance of this contract, the contractor agrees to (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, 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; (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 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.

20. COMMITMENT TO DIVERSITY:

The County is committed to increasing the opportunities for participation of minority-owned business, women-owned business to ensure diversity in its procurement and contract activities. These businesses are encouraged to respond to all solicitations and the County strongly encourages each Contractor and/or supplier with which the County contracts to actively solicit minority-owned businesses, women-owned business, and businesses located in the County as subcontractors and suppliers for their projects.

21. FAITH-BASED ORGANIZATIONS:

Smyth County does not discriminate against faith-based organizations.

22. MISCELLANEOUS

a. The Contractor agrees to comply with all provisions of this Contract, including without limitation all insurance requirements.

b. The Contractor shall be responsible for complying with any applicable Federal, state and municipal laws, codes and regulations that may be required under this Contract.

c. The Contractor and all Subcontractors and Sub-Subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, as it may apply to the Contract.

d. No portion of the work associated with this Contract may be subcontracted without the prior written approval by County or duly authorized agent of the County. The County recognizes that it may be in the best interest of the Contractor to subcontract some or all parts of the work of the Contract described herein; however, the Contractor shall be held responsible by the County for the quality, delivery, and all terms and conditions of the Contract

e. The titles used in this Contract are for general references only and are not a part of the Contract.

f. The continuation of the terms, conditions, and provisions of a resulting contract beyond June 30 of any year, the end of the County's fiscal year, are subject to approval and ratification by the Smyth County Board of Supervisors and appropriation by them of the necessary money to fund and contract for each succeeding year. In the event of non-appropriation of funds, the contract shall be automatically terminated with no recourse for the Contractor.

IN TESTIMONY WHEREOF, the Smyth County Board of Supervisors has caused its name to be hereunto subscribed by Wade H. Blevins, Jr., Chair of the Smyth County Board of Supervisors and attested by Michael Carter, Smyth County Clerk, pursuant to authority heretofore duly granted by the Smyth County Board of Supervisors; and George Pickard of BVU Authority has caused its name to be hereunto subscribed by George Pickard and hereunto duly affixed and attested.

SEEN AND AGREED,

SMYTH COUNTY, VIRGINIA

CONTRACTOR

Wade H. Blevins, Jr., Chair
Smyth County Board of Supervisors

George Pickard
BVU Authority

ATTEST:

ATTEST:

Michael Carter, County Clerk

Witness

**BVU AUTHORITY SERVICES AGREEMENT
EXHIBIT A**

Smyth County Board of Supervisors – Amendments to BVU Terms and Conditions

3. The Customer/County shall have the right to cancel with 60 days' notice with no penalty as provided in the Contract for Services – see Paragraph 8.
4. The Customer/County is responsible for payment of invoices and shall pay within net forty-five (45) days of receipt of the invoice or equipment.
7. All modifications or amendments to the contract shall be in writing and in accordance with Paragraph 6 (a) and (b) in the Contract for Services.
8. Understood. However, see Paragraph 8 on Default in Contract for Services.

Customer/County Signature _____

BVU Salesperson Signature _____

Saltville District Supervisor Roscoe D. Call made a motion to approve the contract as presented and allow Chairman of the Board, Wade H. Blevins to sign. Royal Oak District Supervisor G. Blake Frazier seconded the motion.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
North Fork District Supervisor Ron C. Blevins,
Atkins District Supervisor J. Howard Burton,
Saltville District Supervisor Roscoe D. Call
Rye Valley District Supervisor Rick K. Blevins and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:23:59 PM Michelle Clayton, County Attorney informed the Board the purchase of the Hungry Mother Convenience Station will close on Friday, September 11, 2015. Park District Supervisor M. Todd Dishner reminded the Board the County had been in search of an additional site for the station to be located on should the need arise. Additionally Mr. Dishner requested a letter to be sent to a nearby property owner whom the County had been discussing possibly acquiring for a new site location in the area.

5:25:55 PM Michelle Clayton, County Attorney presented a Memorandum of Understanding between the Board and the Smyth County Sheriff's Office as shown below.

Memorandum of Understanding

Between
Smyth County Board of Supervisors
and
Smyth County Sheriff's Office

This Memorandum of Understanding (MOU) sets forth the terms and understanding between Smyth County Board of Supervisors and the Smyth County Sheriff's Office to assure the cleanliness of roadsides in the vicinity of Smyth County's convenience stations.

Background and Purpose

This agreement is designed to assure that throughout the year those areas that provide trash drop-off for Smyth County residents do not become an eyesore when certain circumstances arise such as weather, spilled garbage and general litter problems. This MOU will help to assure the regular clean-up of roadsides and timely pick-up when there is an unusual amount of trash spilled near the convenience stations. In partnership with the Southwest Virginia Regional Jail, the Sheriff's Office has kept Smyth County's roads clean from trash and debris, and this MOU will make that success even greater by concentrating some of that effort on the convenience stations where trash is deposited and sometimes causes roadside litter problems. The MOU is effective to the extent that regional jail trustees are available to work for the Sheriff's Office roadside clean-up projects.

Responsibilities Under This MOU

This MOU will be accomplished by the following activities:

- **Regularly Scheduled Trash Pick-ups**

This MOU creates the understanding between the parties that all Smyth County convenience stations will be scheduled for a trash pick-up on a twice monthly basis as needed.

- **Reporting of Roadside Trash Problems**

This MOU requires Smyth County's convenience station workers to help alert the Sheriff's Office if unusual amount of trash is on the roadside. In such cases, the Sheriff's Office will schedule clean-up at the earliest time possible and alert the Virginia Department of Transportation to pick up the bags left from the clean-up.

Duration

This MOU is at-will and may be modified by mutual consent of authorized officials from the Smyth County Board of Supervisors and the Smyth County Sheriff's Office. This MOU shall become effective upon signature by the authorized officials and will remain in effect until modified or terminated by any one of the partners by mutual consent.

Wade H. Blevins, Jr., Chair
Smyth County Board of Supervisors

R. David Bradley, Sheriff
Smyth County, Virginia

North Fork District Supervisor Ron C. Blevins made a motion to approve the MOU as presented and to allow Chairman of the Board, Wade H. Blevins Jr. to sign. Royal Oak District Supervisor G. Blake Frazier seconded the motion.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,

Vice Chair, Park District Supervisor M. Todd Dishner
Rye Valley District Supervisor Rick K. Blevins,
Atkins District Supervisor J. Howard Burton,
North Fork District Supervisor Ron C. Blevins,
Saltville District Supervisor Roscoe D. Call and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:28:02 PM Saltville District Supervisor Roscoe D. Call informed the Board that he would like for the Buildings located at the Convenience Station sites be inspected.

5:28:49 PM Rye Valley District Supervisor Rick K. Blevins brought forward a recommendation from the Smyth County Appointment Committee. It is the committee's recommendation to reappoint Roscoe Call to the Community Policy Management Team for a one (1) year term, beginning June 30, 2015 and ending on June 30, 2016, with Scott Simpson remaining as designee.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
Rye Valley District Supervisor Rick K. Blevins,
North Fork District Supervisor Ron C. Blevins,
Atkins District Supervisor J. Howard Burton and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: Saltville District Supervisor Roscoe D. Call.

ABSENT: None.

Rye Valley District Supervisor Rick K. Blevins brought forward a recommendation from the Smyth County Appointment Committee. It is the committee's recommendation to reappoint Manuel Street to Keep Southwest Virginia Beautiful for a one (1) year term, beginning June 30, 2015 and ending on June 30, 2016.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
Saltville District Supervisor Roscoe D. Call,
Rye Valley District Supervisor Rick K. Blevins,
North Fork District Supervisor Ron C. Blevins,
Atkins District Supervisor J. Howard Burton and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

Rye Valley District Supervisor Rick K. Blevins brought forward a recommendation from the Smyth County Appointment Committee. It is the committee's recommendation to reappoint Lori Hester to the Marion Downtown Revitalization Committee for a one (1) year term, beginning June 30, 2015 and ending on June 30, 2016.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
Saltville District Supervisor Roscoe D. Call,
Rye Valley District Supervisor Rick K. Blevins,
North Fork District Supervisor Ron C. Blevins,
Atkins District Supervisor J. Howard Burton and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

Rye Valley District Supervisor Rick K. Blevins brought forward a recommendation from the Smyth County Appointment Committee. It is the committee's recommendation to reappoint Robin Meadows from American Wood Fibers to the New River/Mt. Rogers Workforce Investment Board for a three (3) year term, beginning March 31, 2015 and ending March 31, 2018. It is also the committee's recommendation to reappoint Ed Stringer from the Bank of Marion to the same Board for a three (3) year term beginning June 30, 2015 and ending June 30, 2018.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
Rye Valley District Supervisor Rick K. Blevins,
North Fork District Supervisor Ron C. Blevins,
Saltville District Supervisor Roscoe D. Call,
Atkins District Supervisor J. Howard Burton and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

Rye Valley District Supervisor Rick K. Blevins brought forward a recommendation from the Smyth County Appointment Committee. It is the committee's recommendation to reappoint Dr. Mike Robinson to the Crossroads Rural Entrepreneurial Institute Board of Directors for a four (4) year term, beginning June 30, 2015 and ending June 30, 2019.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
Rye Valley District Supervisor Rick K. Blevins,
North Fork District Supervisor Ron C. Blevins,

Saltville District Supervisor Roscoe D. Call,
Atkins District Supervisor J. Howard Burton and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:32:17 PM Park District Supervisor M. Todd Dishner made a motion to reappoint Kris Ratliff to the Economic Development Authority for a four (4) year term, beginning June 30, 2015 and ending June 30, 2019. Royal Oak District Supervisor G. Blake Frazier seconded the motion.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
Saltville District Supervisor Roscoe D. Call,
Rye Valley District Supervisor Rick K. Blevins,
North Fork District Supervisor Ron C. Blevins,
Atkins District Supervisor J. Howard Burton and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:32:51 PM Michael Carter, County Administrator brought a recommendation before the Board of Supervisors from the Budget Committee. It is the committee's recommendation to allow a line transfer for the Smyth County School Board in the amount of \$135,000.00 as shown below.

Transfer \$135,000.00 from Fund 9, Line item 099990-5801(Instruction) to Fund 9, Line item 099990-5803(Transportation).

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
Rye Valley District Supervisor Rick K. Blevins,
North Fork District Supervisor Ron C. Blevins,
Atkins District Supervisor J. Howard Burton,
Saltville District Supervisor Roscoe D. Call and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

Michael Carter, County Administrator brought a recommendation before the Board of Supervisors from the Budget Committee to amend the FY 15-16 Budget from \$88,496,526 to \$88,527,209 as shown below.

Line Item Number	Title	Expense
Fund 9-099990-5803	School Operating Expense-Transportation	\$30,683.00
Line Item Number	Title	Revenue
Fund 9-022000-0001	Local Funds Transfer from General Fund	\$30,683.00

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr., Vice Chair, Park District Supervisor M. Todd Dishner, Saltville District Supervisor Roscoe D. Call, Rye Valley District Supervisor Rick K. Blevins, North Fork District Supervisor Ron C. Blevins, Atkins District Supervisor J. Howard Burton, and Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:35:38 PM Lavonda Brickey presented information on the Health Department's 2015 mobile rabies clinic. Each year, the County pays the advertising cost for the clinic out of the Animal Fund 3. The Health Department is requesting the Board's consideration to appropriate the money to cover this year's advertising costs. A motion was made by Saltville District Supervisor Roscoe D. Call, seconded by Rye Valley District Supervisor Rick K. Blevins, to approve and appropriate \$280.64 for advertising this year's mobile rabies clinic.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr., Vice Chair, Park District Supervisor M. Todd Dishner, Rye Valley District Supervisor Rick K. Blevins, North Fork District Supervisor Ron C. Blevins, Atkins District Supervisor J. Howard Burton, Saltville District Supervisor Roscoe D. Call and Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

5:36:30 PM Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. called for a recess until 6:00 P.M.

6:01:24 PM Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. called the meeting back to order.

6:01:32 PM Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. opened the Public Hearing for Green Hill Circle. Michael Carter, County Administrator read the following advertisement as published in the Smyth County News & Messenger.

NOTICE OF PUBLIC HEARING

Pursuant to §§ 15.2-2409 and 33.2-343 of the Code of Virginia, 1950, as amended, the Board of Supervisors of the Smyth County, Virginia hereby gives notice of its intent to conduct public hearings regarding proposed improvements to the following subdivision road:

GREEN HILL CIRCLE

Landowners of property abutting Green Hill Circle in the Chilhowie Magisterial District propose to make financial contributions to fund fifty percent of the costs associated with improvement of the road to standards sufficient for the Virginia Department of Transportation (VDOT) to accept the road into the state secondary system of highways for purposes of maintenance, improvement, construction and reconstruction. VDOT would fund the remaining fifty percent of costs. Upon receipt of written agreements from seventy-five percent of owners of land abutting the road, the Board will consider contributing from special assessment of abutting landowners fifty percent of the costs of improvements. If the Board agrees to the proposal, liens will be created against each abutting parcel until the owner reimburses the County its proportionate share of the expense. Any landowner wishing to make objections to an assessment or apportionment may appear at the public hearing in person or by counsel and state such objections.

The Board will consider these proposals at its regular meeting on Tuesday, September 8, 6:00 p.m. in the Board of Supervisors Meeting Room at the County Administration Building located at 121 Bagley Circle, Marion, Virginia.

In compliance with the Americans with Disabilities Act, persons requiring special assistance to attend and participate in the public hearing should contact Clegg Williams, ADA Coordinator for Smyth County, at (276) 783-3298 x 8315 at least forty eight (48) hours prior to the public hearing.

By order of the Smyth County Board of Supervisors
Michael L. Carter, County Administrator

6:04:46 PM Michael Lamkins, 212 Flatwoods Acres Road, Chilhowie, VA, stated that the project would be of no use to him because he does not use this road to access his property.

6:08:37 PM With no one else wishing to speak, Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. closed the Public Hearing.

6:11:57 PM Michael Carter, County Administrator explained to those in attendance of the Public Hearing when the Board could vote on the item and stated the price could change if the participation of the project changes.

6:17:25 PM Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. opened the Public Hearing for Proposed Increase in Smyth County Solid Waste Tipping Fees. Michael Carter, County Administrator read the following advertisement as published in the Smyth County News & Messenger.

Public Hearing
Proposed Increase in Smyth County Solid Waste Tipping Fees

Pursuant to § 15.2-107 and §15.2-1427 of the Code of Virginia, (1950), as amended, the Smyth County Board of Supervisors proposes to increase solid waste tipping fees from \$52 per ton to \$56 per ton. The current disposal cost for used tires would not change from the current rates identified below. The increase in tipping fees is the first since 2009 and is necessary due to new contract rates for hauling and disposal. The increase would take effect immediately upon adoption. The proposed rates would be as follows:

- \$56/ton flat rate for waste delivered to the Transfer Station
- Tires:

Less than 16"	-	\$2.50 each
17" - 24"	-	\$7.50 each
25" or greater	-	\$13.25 each
Cut or chipped tires	-	\$165/ton

A Public Hearing will be conducted by the Smyth County Board of Supervisors on Tuesday, September 8th, 2015 beginning at 6:15 p.m., or as soon thereafter, in the Board of Supervisors meeting room, 121 Bagley Circle, Marion, Virginia. A copy of the present and proposed ordinance is on file at the Smyth County Administrators Office, 121 Bagley Circle, Marion, Virginia and can be viewed between the hours of 8:00 am and 5:00 pm, Monday through Friday.

In compliance with the Americans with Disabilities Act, persons requiring special assistance to attend and participate in the public hearing should contact Clegg Williams, ADA Coordinator for Smyth County, at (276) 783-3298 x 8315 at least forty eight (48) hours prior to the public hearing.

By order of the Smyth County Board of Supervisors - Michael L. Carter, County Administrator

Rye Valley District Supervisor Rick K. Blevins made a motion to waive the reading of the rules. North Fork District Supervisor Ron C. Blevins seconded the motion.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
Saltville District Supervisor Roscoe D. Call,
Rye Valley District Supervisor Rick K. Blevins,
North Fork District Supervisor Ron C. Blevins,
Atkins District Supervisor J. Howard Burton and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

6:20:11 PM With no one wishing to speak, Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. closed the Public Hearing.

6:20:33 PM Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. called for a 10 minute recess.

6:32:22 PM Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. opened the Public Hearing for a Festival Permit from the Konnarock Retreat House Festival Application. Michael Carter, County Administrator read the following advertisement as published in the Smyth County News & Messenger.

PUBLIC HEARING NOTICE

The Smyth County Board of Supervisors will conduct a public hearing on Tuesday, September 8, 2015 at 6:30 p.m., or soon thereafter, in the Smyth County Office Building, 121 Bagley Circle, Marion, Virginia, to consider the following application for an Annual Musical or Entertainment Festival permit under the Code of Smyth County, Virginia:

The Konnarock Retreat House has submitted a festival application for an event to be held on Saturday, October 3, 2015. This event will be held at the Konnarock Retreat House, 6402 Konnarock Road, Troutdale, Virginia, 24378, and will be held between the hours of 10:00 a.m. and 6:00 p.m.

At this public hearing, subject to the rules of procedure of the Board of Supervisors of Smyth County, Virginia, any person may appear and state his/her views thereon.

A copy of this application along with their maps and plans are on file in the Office of the County Administrator of Smyth County at the address given above, and may be viewed Monday through Friday, 8:00 a.m. to 5:00 p.m.

In compliance with the Americans with Disabilities Act, persons requiring special assistance to attend and participate in the public hearing should contact Clegg Williams, Smyth County ADA Coordinator, at (276) 783-3298 x8315 at least forty eight (48) hours prior to the public hearing.

Done by order of the Board of Supervisors
Michael L. Carter, County Administrator

Rye Valley District Supervisor Rick K. Blevins made a motion to waive the reading of the rules. North Fork District Supervisor Ron C. Blevins seconded the motion.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
Saltville District Supervisor Roscoe D. Call,

Rye Valley District Supervisor Rick K. Blevins,
North Fork District Supervisor Ron C. Blevins,
Atkins District Supervisor J. Howard Burton and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

ABSENT: None.

6:33:58 PM Jean Hamm, Chair of the Konnarock Retreat House extended an invitation to the Board to attend the Festival.

6:35:12 PM With no one wishing to speak, Chairman, Chilhowie District Supervisor Wade H. Blevins Jr. closed the Public Hearing.

6:35:18 PM Nothing was discussed concerning old business.

6:35:59 PM North Fork District Supervisor Ron C. Blevins made a motion to continue the meeting on September 24, 2015 at 7:00 P.M. Royal Oak District Supervisor G. Blake Frazier seconded the motion.

After consideration, the motion PASSED by the following vote:

AYES: Chairman, Chilhowie District Supervisor Wade H. Blevins, Jr.,
Vice Chair, Park District Supervisor M. Todd Dishner,
Saltville District Supervisor Roscoe D. Call,
Rye Valley District Supervisor Rick K. Blevins,
North Fork District Supervisor Ron C. Blevins,
Atkins District Supervisor J. Howard Burton and
Royal Oak District Supervisor G. Blake Frazier.

NAYS: None.

ABSTAINERS: None.

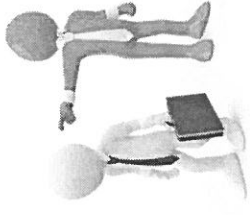
ABSENT: None.

Conflict of Interest Presentation

Smyth County Attorney's Office

October 13, 2015

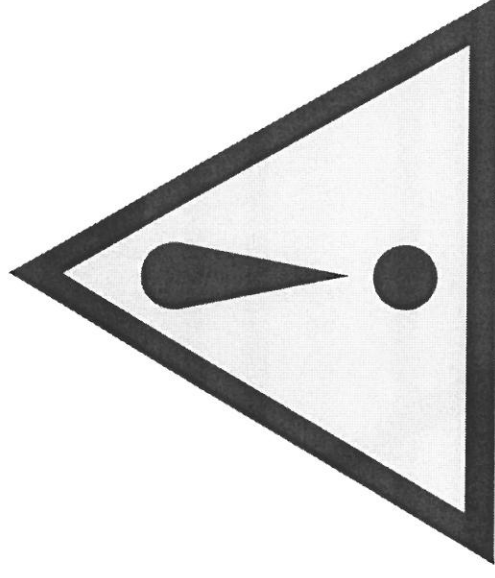
HB 1133 – COIA – No Retaliation Rule



- Amends COIA to prohibit anyone from using his public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law.
- States that it does not restrict the authority of any public employer to govern conduct of its employees, and to take disciplinary action in accordance with applicable law.
- Also, states that it does no limit the authority of a constitutional officer to discipline or discharge an employee with or without cause.

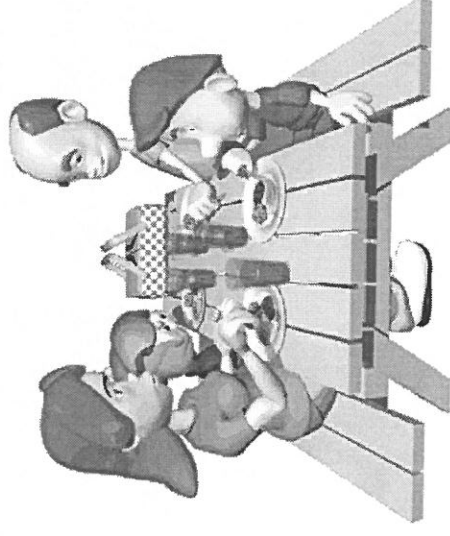
HB 2070 – COIA Changes – Overview

- Review: COIA covers (1) prohibited conduct, (2) prohibited contracts, (3) prohibited transactions, and (4) required disclosures.
- The changes to COIA this year primarily involve definitions, prohibited conduct and required disclosures.



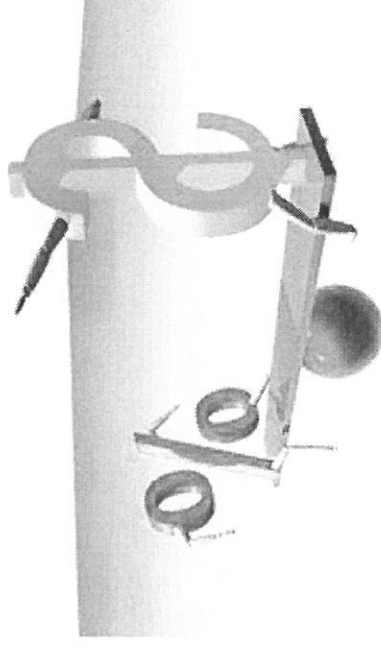
HB 2070 – COIA – Immediate Family

- Immediate family now includes (i) a spouse and (ii) any other person residing in the same household as the officer or employee and who is a dependent of the officer or employee. (If more than 1/2 supported, definitely a dependent.)
- Immediate family definition is important because personal interests and gifts of family members are deemed to be your personal interests and gifts.



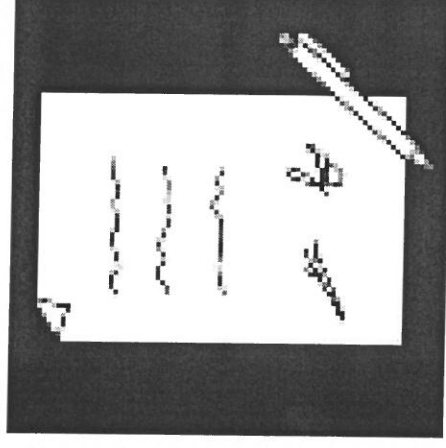
HB 2070 – COIA – Personal Interest

- 1. Ownership of more than 3% in business
- 2. Annual income of >\$5,000 from ownership in business or property
- 3. Salary or other compensation >\$5,000 per year
- 4. Ownership of property, if interest exceeds \$5,000 in value
- 5. Personal liability on behalf of business > 3% of asset value of business
- 6. An option for 1-4 above



HB 2070 – COIA – Prohibited Contracts

- No member of a Board of Supervisors shall have a personal interest in
 - (i) any contract with the governing body;
 - (ii) any contract with any governmental agency that is a component part of his local government and which is subject to the ultimate control of the governing body, or
 - (iii) any contract other than a contract of employment with any other governmental agency if the BOS appoints a majority of that agency's board members.



HB 2070 – COIA – Prohibited Transactions

- If you (or an immediate family member) have a personal interest in a transaction that comes before the County, you have to disclose your interest, and depending on the facts, you may have to completely recuse yourself from any discussion and vote concerning your personal interest.



Law as of Jan. 1, 2016

HB 2070 – COIA – Prohibited Gifts

- HB 2070 imposes an absolute ban on accepting gifts (tangible and intangible) of more than \$100 from certain persons. Individual gifts of more than \$20 w/in same year can add up to \$100.
- Ban also extends to members of your immediate family.
- Those people are (i) **registered lobbyists**, (ii) **lobbyist's principals**, and (iii) a person, organization, or business who **is or is seeking to become a party to a contract** with your local agency.
- This new rule takes effect January 1, 2016. Right now, rule is a \$250 limit on tangible gifts.

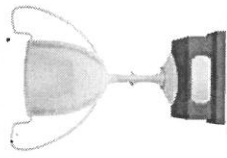


Law as of Jan. 1, 2016

COIA – Gift Exceptions

-
- The following are not defined as gifts under COIA:
 - (1) tickets that are unused;
 - (2) honorary degrees;
 - (3) certain scholarships available to general public;
 - (4) campaign contributions properly received and reported;
 - (5) any gift related to the private profession or occupation of an officer or employee or of a member of his immediate family;

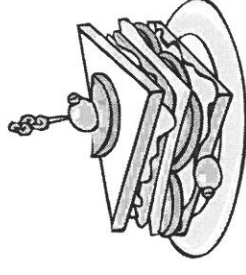


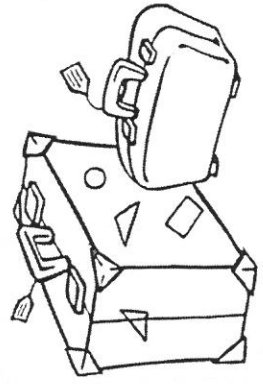


Law as of Jan. 1, 2016

COIA – Gift Exceptions

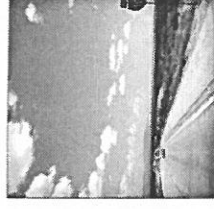
- (6) food/beverage consumed while attending an event where filer is performing official duties;
- (7) food/beverage received at or registration or attendance fees waived for event at which filer is featured speaker;
- (8) certain unsolicited awards such as trophies;
- (9) a devise or inheritance;
- (10) travel disclosed pursuant to Campaign Finance Disclosure Act;





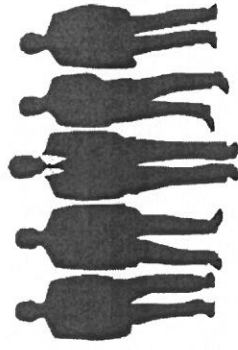
Law as of Jan. 1, 2016

COIA – Gift Exceptions



- (11) travel paid for or provided by federal or state government or by the political subdivision of a state;
- (12) travel related to an official meeting of the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to Section 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment;

Law as of Jan. 1, 2016

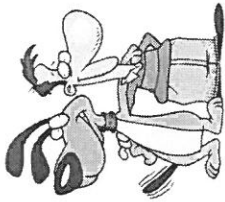


COIA – Gift Exceptions



- (13) Gifts from relatives or personal friends.
- Relatives means spouse, child, uncle, aunt, niece, nephew, first cousin, fiancée, parents, mother/father in law, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, step sister, brother's spouse, sister's spouse.
- Lobbyists, people/entities who have hired lobbyists, and people/entities who are a party or who are seeking to become a party to a contract with the County cannot be counted as personal friends. This includes officers, directors, and persons who have a controlling ownership interest in the above entities.

Law as of Jan. 1, 2016



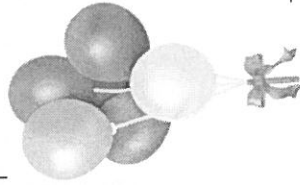
COIA – Exceptions to \$100 Rule that Still Must Be Reported on Form 3117

- 1. Gifts given on basis of personal friendship. In determining whether a person is a personal friend the following factors are considered:
 - (i) the circumstances under which the gift was offered;
 - (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous gift exchange between them;
 - (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
 - (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in Section 2.2-3117 or 30-111.

Law as of Jan. 1, 2016

COIA – Exceptions to \$100 Rule that Still Must Be Reported on Form 3117

-
- 2. Travel expenses approved by the COIA Council.
 - Notwithstanding the \$100 gift rule, you may accept gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value if you have submitted a request and received the approval of the COIA Council.
 - 3. Gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted while in attendance at a “widely attended event”.
 - A “widely attended event” is an event to which at least 25 people have been invited and the event is open to individuals (i) who share a common interest, (ii) who are members of a public, civic, charitable, or professional organization, (iii) who are from a particular industry or profession, or (iv) represent persons interested in a particular issues.
-



Local Filings to Be Done Locally

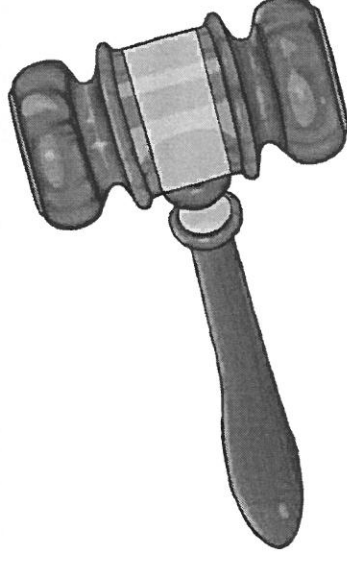
- With the exception of constitutional officers, who now must file with the COIA Council in Richmond, local filings are made locally. This means filings of Form 3117 are made with the Clerk of the Smyth County Board of Supervisors.



Law as of Jan. 1, 2016

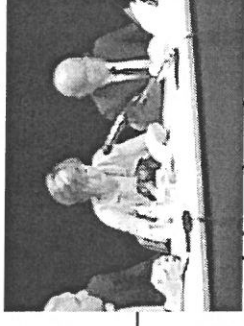
Increased Criminal Penalties

- Any person who knowingly and intentionally makes a false statement of a material fact on the Statement of Economic Interests (Form 3117) is guilty of a Class 5 felony.
- Before, this would have been a Class 1 misdemeanor.



Law as of Jan. 1, 2016

Form 3117, Schedule D: Payments for Talks, Meetings, and Publications



- Trigger for disclosure reduced from \$200 to \$100.
- Lodging, transportation, money, or any other thing of value with a combined value exceeding \$100 (i) for your presentation of a single talk, participation in one meeting, or publication of a work or (ii) for your attendance at a meeting, conference, or event where your attendance at the meeting, conference, or event was designed to (a) educate you on issues relevant to your duties as an officer or employee of your agency or (b) enhance your knowledge and skills relative to your duties as an officer or employee of your agency.
- Only need to list payments by advisory or governmental agency for meetings or travel outside the Commonwealth.
- If you don't have to disclose in Schedule D, you may have to disclose in Schedule E.

Law as of Jan. 1, 2016

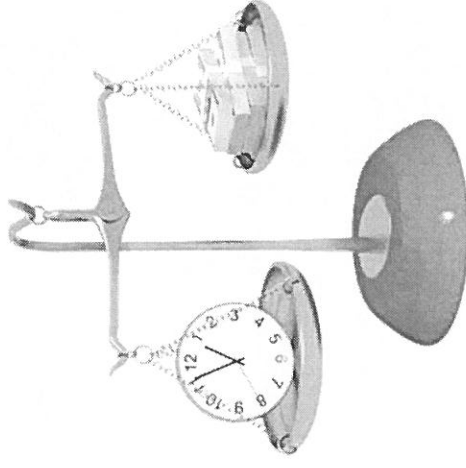
Form 3117, Schedule E: Gifts

-
- Changed so that you must report any combination of gifts and entertainment received from any business, government entity, or individual that exceed \$50.
 - Previously, the limit had been any one gift or entertainment over \$50 or any combination of gifts and entertainment over \$100.

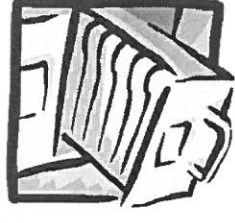
Law as of Jan. 1, 2016

Form 3117: \$250 Penalty for Late Filings

- BOS members must file a Form 3117 by June 15 and December 15 each year.
- Beginning January 1, 2016, the Clerk of the Board of Supervisors must report *all late filings* to the Commonwealth's Attorney. The Commonwealth's Attorney is responsible for assessing a **\$250 penalty for all late filings.**



What Document Must Be Filed?



- ✓ Statement of Economic Interests
- ✓ Financial Disclosure
- ✓ Disclosure of Real Estate Holdings

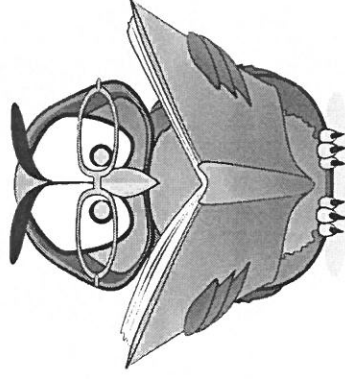


Who Must File?

- The members of every local governing body and school board of each county and city and towns with a population greater than 3,500 and all other local officials and employees who are designated by the local governing body file a Statement of Economic Interests.
 - Constitutional officers, which are the city or county Treasurer, Sheriff, Commonwealth's Attorney, Clerk of the Circuit Court and Commissioner of Revenue, complete the Statement of Economic Interests.
 - Members of the governing body of any authority having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year file a Financial Disclosure form unless the governing body of the jurisdiction that appoints the members requires they file the Statement of Economic Interests.
 - Members of local planning commissions, boards of zoning appeals, real estate assessors and all executive officers in each county and city and in towns with a population greater than 3,500 file a Disclosure of Real Estate Holdings.
 - Citizen members of local boards, commissions, and councils may have to file a Financial Disclosure form if the local governing body requires them to do so.
- Information is available at <https://commonwealth.virginia.gov/va-government/conflict-of-interest/>

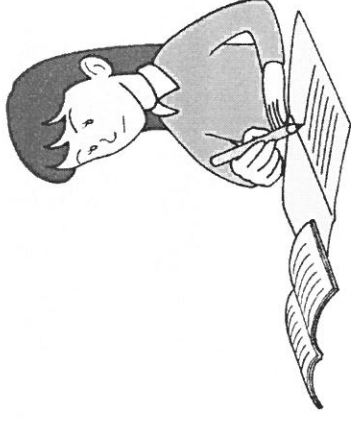
Read COIA and the Form 3117 Carefully

- Virginia Code Section 2.2-3100.1 requires that “[a]ll officers and employees shall read and familiarize themselves with the provisions of this chapter” (the State and Local Government Conflict of Interests Act).



Written Opinions

- You cannot be prosecuted for a knowing violation of this chapter if the alleged violation resulted from your good faith reliance on a written opinion by the Commonwealth's Attorney, County Attorney or COIA Council after full disclosure of the facts involved.
- These opinions will only be given after a written request.





Smyth County Planning Commission

121 Bagley Circle, Suite 120, Marion, VA 24354
Phone (276) 706-8316 Fax (276) 783-9314

Hazel L. Wagoner, Atkins District
Graham Davidson Jr., Chilhowie District
Norman Sparks, North Fork District
Joel Pugh, Park District
Robbie Doyle, Royal Oak District
Paul D. Shepherd, Rye Valley District
David Spence, Saltville District
Clegg Williams, Zoning Administrator
Becca Creasy, Administrative Assistant

To: Michael L. Carter
From: Clegg Williams
Date: September 28, 2015
Subject: Recommendation from Planning Commission on Special Use Permit application from Ridgeview Contractors, LLC

At the Planning Commission's meeting on Thursday, September 24, 2015 the following motion was rendered:

Commissioner Graham Davidson Jr. made a motion to recommend the Board approve the Special Use Permit requested by Ridgeview Contractors, LLC for a *Service Business* with the following restrictions: only six (6) commercial trucks with crash cushions for the business and two (2) service trucks are permitted on the premises, this does not include personal vehicles. The property is identified as 585 Fox Valley Road, Marion; Tax Map No. 55-A-14; and is zoned Agricultural/Rural. Commissioner Hazel Wagoner seconded the motion.

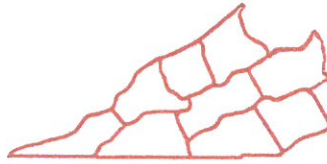
After consideration, the motion PASSED by the following vote:

AYES: Davidson Jr., Doyle, Pugh, Shepherd, Sparks, Spence, and Wagoner
NAYS: None.
ABSTAINERS: None.
ABSENT: None.

Southwest Virginia

Darin P. Russell, Director
Post Office Box 2725
Lebanon, VA 24266

Tel. : (276) 889-5862
Fax: (276) 889-5864



Community Corrections

To: Mr. Michael Carter
Smyth County Administrator

From: Darin P. Russell, Director

Date: September 30, 2015

REF: FY 14-15 Report

The Community Criminal Justice Board (CCJB) oversees the operation of this program. Every participating Locality appoints a representative for their locality. There are certain other appointments required by the Code of VA (9.1-178).

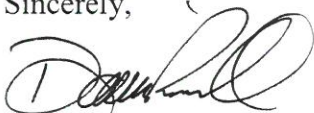
I respectfully request you to share this information with your Board of Supervisors and place on your next available agenda the following people to be members of the (CCJB).

The Honorable Elizabeth S. Wills-Juvenile and Domestic Judge Representative
The Honorable Henry A. Vanover-Circuit Court Judge Representative
The Honorable V. Blake McKinney-District Court Judge Representative
Mrs. Teresa Turner-Education Representative
Chief John Austin-Chief of Police Representative
Mary Hanzlik-Chief Magistrate Representative
Sheriff David Bradley-Sheriff's Representative
Roy Evans-Commonwealth Attorney Representative
Steve Clear-Regional Jail Representative
Kevin Tiller- Defense Attorney Representative
Sharon Alderson- Community Service Representative

The people listed have agreed to serve on the CCJB and must have approval of a majority of the Localities served by this program.

Thank you for your support and we look forward to serving you in the future. If you have questions or comments please contact me.

Sincerely,



Darin P. Russell
Director

GRANT AGREEMENT

This Grant Agreement (this "Agreement") made and entered into the **23rd day of September, 2015** (the "Award Date"), by and between the **Tobacco Region Revitalization Commission**, a body corporate and political subdivision of the Commonwealth of Virginia (the "Commission"), and **Smyth County Board of Supervisors**. (the "Grantee").

WITNESSETH:

WHEREAS, the Virginia General Assembly created the Commission to, among other things, stimulate the economic growth and development of tobacco-dependent communities in the Southside and Southwest regions (the "Region") of the Commonwealth of Virginia (the "Commonwealth"), and

WHEREAS, the Grantee has submitted an application, which by this reference is incorporated herein and made a part of this Agreement (the "Application"), to the Commission for funding to acquire, construct, improve, equip, furnish and/or otherwise undertake the project entitled **Smyth County's Back of the Dragon Overlook** described on **Exhibit A** attached hereto (the "Project"), and

WHEREAS, the Commission, in reliance upon the information set forth in the Application, has determined that the Project benefits the Region and is consistent with and in furtherance of the Commission's public purposes and approved a grant to the Grantee in the amount of **\$184,000.00** (the "Grant") to fund the Project, the approval and funding of such Grant the Commission has determined constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the Grant, and

WHEREAS, the Commission and the Grantee desire to set forth their understanding and agreement as to the use of the Grant and the obligations of the Grantee regarding the use of the Grant,

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

1. Project and Budget. The Grantee agrees to use the Grant to provide funds for that portion of the Project not being paid from other sources as set forth in the budget for the Project attached hereto as **Exhibit B** (the "Project Budget"). No portion of the Grant shall be used for any purpose whatsoever other than the Project without the prior written approval of the Executive Director of the Commission (the "Executive Director"). No material changes shall be made in the scope of the Project or to the Project Budget without the prior written approval of the Executive Director. Any document signed by the Executive Director accepting a change in the scope of the Project or to the Project Budget shall set forth with specificity the accepted change. If the maximum

authorized amount of the Grant exceeds the amount necessary to complete the Project, the excess shall not be disbursed to the Grantee but shall remain with the Commission or, if previously disbursed, be returned to the Commission within thirty (30) days of the earlier of the completion of the Project or the expiration of this Agreement.

The Grantee agrees to cause the Project to be acquired, constructed, improved, equipped, furnished and/or otherwise undertaken as described in Exhibit A and will cause the Project to be completed on or before the expiration of this Agreement. The Grant funds and funds available from the other sources specified in the Project Budget will be sufficient to cause the Project to be completed.

The Grantee agrees to comply with any applicable governmental requirements pertaining to the Project and the use and application of Grant funds provided hereunder, including but not limited to, applicable requirements of the Virginia Public Procurement Act (Virginia Code Section 2.2-4300 *et seq.*, as amended) but only as and to the extent required by any such governmental requirements, and the Commission shall not in any way be responsible for determining the extent, to which any such governmental requirements apply to this Grantee.

2. Payment of Grant Funds. Subject to the terms of this Agreement, including but not limited to, satisfaction by the Grantee, in the sole discretion of the Commission, of the conditions set forth on Exhibit C attached hereto, the Grant shall be disbursed on a reimbursement basis upon submission of a signed payment request on the Commission's then-current form ("Payment Request Form") with adequate supporting documentation. The Grantee agrees to comply with the Commission's General Funding Policies, Grant Disbursement Guidelines and Guidelines for Advance of Funds as adopted by the Commission as in effect from time to time and applied in the sole discretion of the Commission. Expenses incurred prior to the Award Date are not eligible for reimbursement. Prior to any disbursement, the Commission shall have on record documentation from the Grantee designating the officers, employees or agents authorized to make a reimbursement request (such documentation may be in the form of a resolution or minutes of the Grantee appointing such designee). Reimbursement requests shall be submitted not more frequently than quarterly, unless the Commission otherwise agrees. Appropriate supporting documentation shall be attached to all Payment Request Forms and may include, but is not limited to, invoices from goods purchased and services performed, receipts, vouchers, reporting forms or other evidence of the actual payment of costs related to the Project and consistent with the Project Budget. The Grantee shall also provide appropriate supporting documentation of the expenditure and application of any required matching funds for the Project as set forth on Exhibit C attached hereto. The Commission may in its sole discretion refuse to make a disbursement if the Grantee's documentation is not adequate or if such disbursement does not appear to be within the Project Budget or otherwise contrary to or in violation of the provisions hereof. The Commission in its sole discretion may refuse to disburse any funds to the Grantee if the Grantee has previously received a grant award and a final grant report for the previous grant award has not been received by the Commission.

The Grantee may request in writing an advance of up to twenty-five percent (25%) of the Grant if the Grantee lacks sufficient working capital to fund the Project. Approval of such request shall be in the sole discretion of the Commission and shall be available no earlier than ninety days (90) prior to the start of the Project. If an advance is disbursed, the Grantee may request additional

disbursements only upon submission of signed Payment Request Forms with adequate supporting documentation for actual expenditures incurred for which the previous disbursement was used.

3. Quality of Work. The Commission, and its members, employees and agents, shall have the right to inspect the Project at reasonable times from time to time. Upon a determination that the quality of work done or the progress toward completion of the Project is unsatisfactory, the Commission may take whatever action is necessary to preserve the integrity of the Grant and its original intended purpose, including but not limited to, the actions set forth in Section 9 of this Agreement. The Project may be monitored through on-site visits by representatives of the Commission or in any other manner deemed appropriate by the Executive Director.

4. Parties' Relationship. In connection with the award or the administration of the Grant, the Commission does not and shall not assume any liability for any financial or other obligations of the Grantee made to third parties, whether or not related to the Project. The Grantee shall provide written notice to all vendors, contractors and any other party retained to work on the Project that neither the Commission nor the Commonwealth shall be liable for the Project or any payment failure or other obligation related thereto. Such written notice shall provide that by accepting work on the Project, all such vendors, contractors and other parties release and relinquish the Commission and the Commonwealth from any claim which might otherwise be asserted, and that each party accepting such work thereby indemnifies and holds the Commission, and its members, employees and agents, harmless against any and all such obligations; and further, that if any action is brought against the Commission, or its members, employees or agents, the party accepting such work shall be liable for all legal expenses and other costs related to such action. The Grantee is and will be acting as an independent contractor in the performance of the Project, and agrees to be responsible, where found liable and to the extent not covered by insurance or specified by statute, for the payment of any claim for loss, personal injury, death, property damage, or otherwise arising out of any act or omission of its members, employees or agents in connection with the performance of the Project. Nothing contained herein shall be deemed an express or implied waiver of the sovereign immunity of the Commission or the Commonwealth.

In the event the Commission is required to take legal action under this Agreement, the Grantee shall be liable for all of the Commission's costs expended for the administration and enforcement of this Agreement, including but not limited to, reasonable attorney's fees and court costs.

5. Recordkeeping. The Grantee shall maintain proper books of record and account with respect to the Grant and the Project in which accurate and timely entries shall be made in accordance with generally accepted accounting principles, consistently applied, during the term of this Agreement. Grant funds received from the Commission shall be held in a separate and segregated account (the "Fund") and the Fund shall reflect all activity of the moneys received from the Commission for the Project, itemized by category of expenses in the same manner as in the Project Budget. The Grantee shall retain all invoices from goods purchased and services performed, receipts, vouchers, reporting forms or other evidence of the actual payment of costs related to the Project. All books of record and account and all records of receipts and expenditures with respect to the Grant and the Project and copies of Payment Request Forms with supporting documentation and annual and final reports submitted to the Commission shall be retained for at least three (3) years

after the later of the completion of the Project or the expiration of this Agreement. The Commission, and its members, employees and agents, shall have the right at reasonable times from time to time to inspect and make copies of the books and records of the Grantee and the Fund.

6. Annual Reports. The Grantee shall submit to the Commission annual financial and narrative reports reflecting activity in the Fund and progress made toward completion of the Project. Annual financial reports shall be presented on the Commission's grant reporting form then in effect (the "Grant Reporting Form"). Annual narrative reports shall indicate the progress made toward achieving the goals of the Grant and shall be submitted with the Grant Reporting Form. Annual reports shall be due one year from the Award Date and annually thereafter until the Project is complete. The Commission reserves the right to request additional information to supplement the information provided in the Grant Reporting Form or the annual narrative reports, including but not limited to, the Grantee's audited financial statements.

7. Final Report. The Grantee shall provide a final financial and narrative report to the Commission within thirty (30) days of the earlier of the completion of the Project or the expiration of this Agreement. The final report shall contain the type of information contained in the annual reports, including a narrative as to the success of the Project and a description of the long-term achievements and expectations for the Project. The Commission may withhold final disbursement of up to ten percent (10%) of the Grant until receipt of a final report that is in all respects satisfactory to the Commission. After the completion of the Project and expiration of this Agreement, the Commission may in its sole discretion require additional reporting on the long-term achievements and expectations of the Project.

8. Interim Reports. In addition to the annual reports and final report required by Sections 6 and 7 of this Agreement, the Commission may reasonably request that the Grantee submit additional or interim information from time to time to ensure that the provisions of this Agreement are properly carried out, administered and enforced.

9. Misuse of Award; Rights of Commission. If the Commission determines that any part of a Grant has not been used for the Project or for a purpose otherwise approved in writing by the Executive Director, or that the Grantee has failed to comply with any material term or condition of this Agreement, including but not limited to, the Grantee complying with the reporting requirements of this Agreement or making in any material respect a false or misleading statement or other written or oral representation, warranty or statement furnished or made to the Commission in this Agreement, the Application or otherwise, the Commission in its sole discretion may withhold any further disbursements to the Grantee and, in addition:

(a) rescind the Grant by written notice to the Grantee, in which event the Grantee shall be obligated to return to the Commission, within five (5) days following receipt of such notice, an amount, from legally available funds, equal to all Grant payments received pursuant to this Agreement, plus interest from the date of receipt of such notice at the prime rate set forth in the Wall Street Journal on the date of such notice;

(b) require the Grantee to take whatever action at law or in equity the Commission may direct in order to recover any Grant funds not used for the actual payment

of costs related to the Project and consistent with the Project Budget, and comply with any procedures that the Commission may direct in order to prevent further improper use of the Grant;

(c) take any other action as necessary to preserve the integrity of the Grant and to preserve Grant funds for appropriate uses;

(d) determine that the Grantee is ineligible to receive future grant funding through the Commission;

(e) withhold any and all disbursements requested by the Grantee from the Commission under any other grant previously approved by the Commission; and/or

(f) take such judicial action as is necessary to collect any amounts owed, including legal action for breach of this Agreement, pursuant to this Section or as otherwise provided in this Agreement.

The Grantee agrees to pay the Commission's attorneys' fees and actual costs incurred in the collection of funds or for the enforcement of any obligations of the Grantee set forth in this Agreement.

The Commission reserves the right to modify or withhold any disbursement of Grant funds if the Commission in its sole discretion determines that it is necessary in order to protect the purposes and objectives of the Commission and the Grant or to comply with any law or regulation applicable to the Commission, the Grant and/or the Grantee.

10. Sale or Encumbrance; Security Interest. Until the Commission has determined that the public purposes of the Grant have been satisfied, none of the assets or property acquired, constructed, improved, equipped, and/or furnished as part of the Project shall be leased, sold, exchanged, disposed of, hypothecated, mortgaged or encumbered without the prior written approval of the Executive Director. In the event that such asset or property is leased, sold, exchanged, disposed of, hypothecated, mortgaged or encumbered without the prior written approval of the Executive Director, the Commission may assert its interest in the asset or property to recover the Commission's share of the value of such asset or property and/or recover from the Grantee, unless otherwise prohibited by law.

Grantee hereby pledges, delivers and assigns to the Commission a security interest in, to and on all property purchased with the Grant, which security interest shall be held by the Commission to secure Grantee's full performance under this Agreement. Upon the request of the Commission, Grantee will execute, provide and sign all documents necessary to establish and/or perfect Commission's security interest in such property, including deeds of trust, supplemental deeds of trust, amendments or modifications hereto, financing statements, continuation statements or other instruments and documents which may be reasonably required from time to time. The Commission will release its security interest upon Grantee's full performance under this Agreement, including, without limitation, Grantee's full compliance with all reporting requirements required herein, and once the Commission has determined that the public purposes of the Grant have been satisfied.

11. Press Releases. The Grantee agrees that it shall not issue any press releases or other public statements regarding the Grant without the prior written consent of the Commission.

12. Future Funding. The Grant provided pursuant to this Agreement shall not be deemed to be an actual or implied promise of the Commission to fund the Project except as provided for herein. No representation by the Commission, or its members, employees or agents, shall be binding unless set forth in writing and signed by the Executive Director. In addition to the other remedies provided by law or in this Agreement, if the Grantee fails to comply with the terms of this Agreement, the Grantee shall not be entitled to additional funding for the Project.

13. Entire Agreement. To the extent there are inconsistencies between this Agreement and its supporting documents, including the Application and the exhibits attached hereto, this Agreement shall control. This Agreement expresses the entire understanding and all agreements between the Commission and the Grantee and may not be modified except in a writing signed by the Commission and the Grantee.

14. Governing Law; Jurisdiction; Venue. This Agreement shall be governed by the applicable laws of the Commonwealth. The venue of any judicial action shall be in the Circuit Court of the City of Richmond, Virginia, and such litigation shall only be brought in such court.

15. Limitation of Commission's Liability. Nothing herein shall be deemed to be a covenant, agreement or obligation of a present or future member of the Commission or of an employee or agent of the Commission. No member, employee or agent of the Commission shall incur any personal liability with respect to any action taken by him or her pursuant to this Agreement.

16. Severability. If any provision of this Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof.

17. Public Documents. Unless specifically exempted pursuant to the Virginia Freedom of Information Act (Virginia Code Section 2.2-3700 *et seq.*, as amended), all reports, documents, financial data and other information provided to the Commission shall be public records.

18. Notices. Unless otherwise provided for herein, all notices, approvals, consents, correspondence and other communications pursuant to this Agreement shall be in writing and shall be deemed received upon receipt or refusal after mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean return of certified mail or overnight courier package not accepted by the addressee) to (a) the Commission at 701 East Franklin Street, Suite 501, Richmond, Virginia 23219, Attention: Executive Director, or (b) the Grantee at the address set forth below.

19. Conditional Funding. In the event that disbursement of Grant funds is contingent upon the happening of an event or events described herein that have not yet occurred as of the Award Date, the Commission may withdraw the Grant if such event or events have not been substantiated with appropriate documentation satisfactory to the Commission within twelve (12) months of the

Award Date. This Agreement is subject to the availability of Commission funds. If such funds become unavailable and the Commission is unable to obtain sufficient funds, this Agreement shall be amended or terminated, as appropriate.

20. Expiration. Thirty-six (36) months after the date on which the Grant is approved, the Grant shall be automatically rescinded with respect to all funds not yet disbursed by the Commission, unless an extension is granted in writing by the Commission.

21. Survival. The rights and remedies available to the Commission shall survive any expiration or termination of this Agreement, including but not limited to, Sections 4, 7, 9, 10 and 21.

22. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, and all of which together shall constitute but one and the same instrument.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

TOBACCO REGION REVITALIZATION COMMISSION, a body corporate and political subdivision of the Commonwealth of Virginia

Signature of Executive Director: _____

Printed Name of Executive Director: _____ Evan Feinman _____

Date: _____

Smyth County Board of Supervisors

Signature of Grantee's Chief Executive: _____

Printed Name of Chief Executive: _____

Date: _____

Grantee Information:

Address _____

Phone # _____ e-mail _____ Federal ID # _____

Project Description

The purpose of the Back of the Dragon Overlook is to attract additional tourists to Smyth County to support the local economy. Every year, over 15,000 motorcyclists and car enthusiasts visit the Back of the Dragon. The plan is to double that number in five years. Many of them stay at local hotels and B&Bs between two and five nights during their visit. Additionally, they dine at local restaurants and shop at local shops. This has a great impact on the local economy, and in Marion alone, the town has seen a 14.3% increase in their meals/lodging tax revenue.

Project Budget

The Budget Worksheet is available as a separate attachment.

Grant Conditions

1. No less than dollar 50% of the total Project Budget shall be funded by non-commission sources and satisfactory evidence thereof submitted to the Commission prior to disbursement of any Commission money. Un-approved applications to other funding sources are not satisfactory evidence.