



TOWN COUNCIL WORK SESSION

Monday, March 3, 2014 @ **6:30pm**

Front Royal Administration Building

1. CLOSED MEETING – Personnel Matter (Community Development Director Position)

Motion to go Into Closed Meeting

I move that Council convene and go into Closed Meeting for the purpose of assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees, or employees of a public body, specific to applications for the Community Development Director Position, pursuant to § 2.2-3711 A. 1. of the Code of Virginia

Motion to Certify Closed Meeting at its Conclusion *[At the conclusion of the Closed Meeting, immediately re-convene in open meeting and take a roll call vote on the following:]*

I move that Council certify that to the best of each member's knowledge, as recognized by each Council member's affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Action as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by Council, and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.

Town/Staff Related Issues:

2. Waiver of Sidewalk Requirement on W. 15th Street – Doug Boyd – *Director of Planning/ Zoning*
3. AMP Converge Demand Response Program – *Director of Energy Services*
4. Johnny Blue Toilet Systems Waste Disposal Request – *Town Manager*
5. Continued Discussion on Ordinances to Repeal Fireworks Display Permits & Blasting Storage –
Town Manager
6. Sale of Parking Lot for Future Police Department – *Town Attorney*
7. Front Royal Limited Partnership Voluntary Settlement Agreement – *Town Attorney*

Council/Mayor Related Issues:

8. Liaison Committee Meeting Items for March 20 Meeting
9. Virginia Maintenance Code – *Vice Mayor Parker*
10. Council Discussion/Goals *(time permitting)*

Town of Front Royal, Virginia Work Session Agenda Form

Date: March 3, 2014

Agenda Item: Waiver of Sidewalk Requirement on W. 15th Street – Doug Boyd
Director of Planning & Zoning

Summary: On February 19, 2014, Mr. Douglas M. Boyd requested a waiver of the sidewalk requirement for 833 and 835 W. 15th Street. Mr. Boyd is presently constructing two new houses on these lots. He states that the reason for his request is because there are no other sidewalks within several blocks. Attached is Mr. Boyd's letter of request, along with the response letter sent to him by the Town Manager (Attachment A & B).

The Town Code provides the guidelines for which Town Council should consider requests to waive sidewalks. Specifically, Section 148-41.A. states the following:

"For all subdivisions involving the creation of an additional buildable lot or lots, sidewalks shall be required on both sides of all public streets within the subdivision and on the side of each street touching the subdivision, unless other provisions have been made and approved by the town for an alternative system of pedestrian walkways. This requirement for sidewalks along existing public streets may be waived on vote of the Town Council in residential areas where curb and gutter has been waived to Section 149-40(C), or where any newly created lots exceed one-half acre in size, or where the existing development pattern would likely rule out the orderly creation of a complete sidewalk network in the long term. Such waiver shall not include existing streets designated in the Town Plan as important sidewalk linkages. Public sidewalks shall be required for all commercial developments and multifamily residential developments. Public sidewalks may be required by the town for industrial lots."

In summary, Section 148-41.A. authorizes the waiver of sidewalks, but only if one of the following three conditions are met: 1) Where curb and gutter is also waived; 2) When the lots exceed ½ acre; OR When Town Council determines that the orderly creation of a complete sidewalk network in the long term is unlikely to occur.

Council Discussion: This agenda item is scheduled for a work session review on 03/03/14.

Staff Evaluation: Based on the Town Code criteria, a waiver could be granted IF Town Council determines that the orderly creation of a complete sidewalk network in the long term is unlikely to occur in the area around 833 and 835 W. 15th Street. An illustration of the two lots is attached for supportive information on the properties (Attachment C). The closes sidewalk is adjacent to the 14th Street/Jefferson Avenue intersection.

Budget/Funding: N/A

Legal Evaluation: The Town Attorney will be available at the upcoming Town Council work session to answer questions that Town Council may have.

Town Manager Recommendation: The Town Manager will be available at the upcoming work session for discussion and questions.

Council Recommendation:



TOWN OF FRONT ROYAL
OFFICE OF THE TOWN MANAGER
ADMINISTRATION BUILDING
P.O. BOX 1560
FRONT ROYAL, VIRGINIA 22630-1560

STEVEN M. BURKE, PE
Town Manager
(540) 635-8007
(540) 636-7475 (Fax)
sburke@frontroyalva.com

February 19, 2014

Mr. Douglas Boyd
K&L Investments, LLC
6374 St. Davids Church Road
Fort Valley VA 22652

RE: West 15th Street Developments (Lots A & 8A)

Dear Mr. Boyd:

Following our meeting this afternoon, I discussed your requests with staff and offer the following:

Your request for Town Council to consider a request to waive the installation of sidewalks at both properties will be added to the March 3rd agenda. The meeting will be at 7:00 pm in the Council Chambers of the Administration Building located at 102 East Main Street.

With regard to the public infrastructure improvements for both properties, I have confirmed that connection fees in the amount of \$29,788.00 have been paid for both properties. However, you have not obtained a Right-of-Way Utilization Permit for construction of any improvements in the right-of-way. Your application for a permit for improvements associated with 835 West 15th Street (Lot 8A) has identified a bond amount of \$18,221.00 for curb, sidewalk, driveway apron, utility cuts, and asphalt repairs. This bond will need to be provided prior to issuance of the permit for these improvements.

The Director of Environmental Services has confirmed that he told you that the installation of the water connection for 833 West 15th Street could occur at the same time as that for 835. An additional \$2,500.00 bond would be required to include this work on the Right-of-Way Utilization Permit. The bond for its installation could not be released until the water service line was connected to a water meter.

Please provide cash bond or surety for the Utilization Permit to the Department of Environmental Services to secure your Permit as soon as you would like to commence work within the right-of-way.

If you have any questions regarding your development, please let me know.

Sincerely,

Steve Burke, PE
Town Manager

cc: Doug Napier, Esq., Town Attorney
Jimmy Hannigan, Director of Environmental Services

**K & L INVESTMENTS LLC
6374 ST. DAVIDS CHURCH ROAD
FORT VALLEY, VA 22652**

PHONE 540-933-6610

FAX 540-933-6952

February 19, 2014

Town of Front Royal VA
102 E. Main Street
Front Royal, VA 22630

RE: K & L Investments LLC
(833 W. 15th St) Lot #A Block 5 Tharpe Subdivision and
(835 W. 15th St) Lot #8A (formally lots 7 & 8) Block 3
Tharpe Subdivision

Attn: Town Manager
Mr. Steven M. Burke, PC

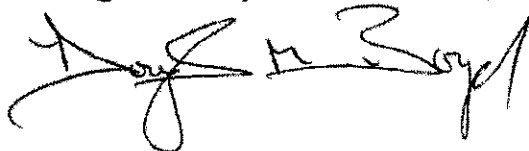
Mr. Burke,

My name is Doug Boyd and I am trading as K & L Investments LLC. I am currently constructing two single family dwellings located on N 15th Street at the west end on Hillcrest Dr. And 15th St. I would like to make a formal request to ask the Town Council to consider not having me install 4' sidewalks on both of these building lots as per town code.

The reason for my request is there is no other sidewalks within several blocks of these houses. I would like to be put on the next Town Council work session so that the town may consider my request.

Please let me know if there is anything else that is needed from me to make this request. Thank you for your cooperation in this matter. If there are any other questions, please feel free to contact me on my cell phone at 540-975-0310 or by email at nibo@shentel.net.

Sincerely,
Douglas M. Boyd



OF RECORD

LOT 9

LOT 10

LOT 11

S 49°25'00"E

100.00'

192.3

193.4

197.6

LOT 8A

13,500 SQ. FT.

30' B.R.L.

SANITARY SEWER LINE

DRIVE

E. P.

(50' R.O.W.)

PROPOSED CONCRETE WALK

N 40°35'00"E

SWALE

193.0

193.5

193.0

195.1

SEWER LATERAL

30' B.R.L.

40'

PROPOSED DWELLING

F.F. ELEV.

194.0

833 W. 15TH ST

WATER LATERAL

35'

191.7

35' B.R.L.

194.1

192.0

193.0

135.00'

178.8

N 49°25'00"W

PROPOSED CONC. APRON
PER TOWN STANDARD

100.00'

190.5

PROPOSED CONCRETE WALK

EXISTING 2.5 C. & G.

(50' R.O.W.)

(PAVED)

ELEVATIONS ASSUM DATUM

100.0

EXISTING ELEVATIONS

100.0

PROPOSED ELEVATIONS

WEST 15TH STREET

T. M.20A1-1-3-7, 8

184.9

ELEVATION SURVEY ON LOT 7 AND LOT 8, BLOCK THREE, THARPE
SUBDIVISION ADDITION TO ROYAL VILLAGE RECORDED IN
P. B. 2, PG. 87.

190.1



833 and 835 W. 15th Street

Waiver Request by Douglas Boyd.



Scale: 1:2256.994353

Date: 02/24/2014

Printed By: J. Camp

Under Virginia State Law, these real estate assessment records are public information. Display of this property information on the internet is specifically authorized by the Code of Virginia §58.1-3122.2(as amended).



Item No. 3

Town of Front Royal, Virginia Work Session Agenda Form

Date: March 3, 2014

Agenda Item: AMP – Comverge Demand Response Program

Summary: For several years AMP has offered and managed enrollment in the PJM's demand response program for member utilities. PJM has changed the rules, which requires participants to commit to 3 years in advance with penalties. This 3-year advance commitment has discouraged retail customers from participating.

AMP recently entered into a contract with a third party Curtailment Service Provider (CSP), Comverge to allow member communities to partner with AMP and Comverge to enroll retail customers into the PJM demand response program.

Council Discussion: This agenda item is scheduled for discussion between Town Council and Staff during the March 3, 2014 Town Council Work Session.

Staff Evaluation: This program will allow the Town of Front Royal to offer our commercial customers an opportunity to enroll into the PJM demand response program. This program provides revenue to both the Town and the commercial customer, maintains existing long-term marketing relationships, and potentially hedges against some auction risk.

Budget/Funding: N/A

Legal Evaluation: Town Attorney will be available to discuss legal issues.

Staff Recommendations: Staff supports and recommends the participation in the demand response program. Staff recommends that council consider the draft schedule and ordinance at a future council meeting for approval and participation in the program.

Town Manager Recommendation:

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action

Consensus Poll on Action: ____ (Aye) ____ (Nay)

Work Session

AMP-ENERWISE DEMAND RESPONSE AND 1 CP PILOT PROGRAMS

PARTICIPATING MEMBER SCHEDULE

AMP CONTRACT NO. _____

A Schedule to American Municipal Power, Inc.,

and

Town of Front Royal, Virginia

Master Service Agreement No. C-12-2007-6255

This Participating Member Schedule (the "Schedule") between American Municipal Power, Inc. ("AMP") and the Town of Front Royal (the "Participating Member") has been agreed upon as of February __, 2014 (the "Effective Date"). This Schedule is a schedule under the Master Services Agreement referenced above ("MSA") the terms and conditions of which shall apply to all transactions hereunder unless specifically set forth to the contrary herein.

Recitals

WHEREAS, AMP is a nonprofit Ohio corporation organized, *inter alia*, to own and operate facilities, or to otherwise provide for the generation, transmission or distribution of electric power and energy, and to furnish technical services on a cooperative nonprofit basis for the mutual benefit of its Members;

WHEREAS, the Participating Member and AMP collectively ("Parties") have entered into a Master Service Agreement dated September 1, 2010 ("Agreement") under which certain services may be provided under schedules thereto;

WHEREAS, AMP has worked with Converge, Inc., d/b/a/ Enerwise Global Technologies Inc., (hereinafter "Enerwise" or "CSP"), a qualified Curtailment Service Provider who seeks to work in conjunction with AMP and AMP Members to provide marketing, sales, registration and program management to develop a Demand Response Pilot Program ("DR Program") and to provide an opportunity for the

commercial and industrial retail customers of Member to participate in the PJM demand response programs;

WHEREAS, Participating Member is a political subdivision that owns and operates a municipal electric system and is the relevant electric retail regulatory authority ("RERRA") over its own distribution system;

WHEREAS, as the RERRA, Participating Member has designated, or will designate AMP as an authorized designee and desires to participate in the Demand Response Program and the 1 CP Program to assist the grid during emergency conditions while receiving capacity payments and achieving transmission savings pursuant to the terms and conditions as set forth herein;

WHEREAS, Participating Member desires to participate in the 1 coincidental peak (1 CP) peak shaving program ("1 CP Program") to achieve transmission savings pursuant to the terms and conditions as set forth herein; and,

NOW, THEREFORE, in consideration of the conditions, terms and covenants hereinafter contained, the Parties hereto do hereby mutually agree as follows:

ARTICLE I **DEFINITIONS**

Terms referenced herein but not specifically defined shall be in accordance with the PJM Interconnection, LLC's ("PJM") Open Access Transmission Tariff, the PJM Operating Agreement, the PJM Business Practice Manuals, and any other PJM requirements.

Coincident Peak. The hour of the highest load for a PJM zone. Also referred to as 1 CP (1 coincident peak).

Curtable Load. That portion of a Municipality's load that Municipality or Participant is willing to curtail during PJM called emergencies and tests.

Customer. A commercial, industrial or municipal end user.

Demand Response Resource. A resource with a demonstrated capability to provide a reduction in demand through load control or behind the meter generation.

ELRP. PJM's Emergency Load Response Program, as defined by the PJM tariff, manuals and other governing documents, designed to provide a method by which end-use customers may be compensated by PJM for reducing load during an emergency event. The ELRP may include the Capacity Only Option, defined as Demand Response Resources that receive only a capacity payment for reductions; the Energy Only Option, defined as Demand Response Resources that receive only an energy payment for reductions; or the Full Emergency Load Response option, defined as Demand Response Resources that receive both an energy payment for reductions and a capacity payment. The ELRP does not include PJM's Economic Load Response, which enables Demand Response Resources to respond to PJM energy, synchronized reserve, and/or day-ahead scheduling reserve prices by reducing consumption and receiving a payment for the reduction or following PJM signals to reduce or increase load if providing regulation services.

PLC. Peak Load Contribution is a customer's contribution to a zone's normalized peak load as estimated by the zone's Electric Distribution Company to determine a Load Serving Entity's obligation peak load.

PJM. PJM Interconnection LLC, a Regional Transmission Organization.

RTO. The pertinent Regional Transmission Organization, which may include, but is not limited to PJM and MISO.

ARTICLE II **PROGRAM DESCRIPTIONS**

SECTION 2.1 - DR PROGRAM DESCRIPTION: This DR Program relies on CSP, in coordination with AMP and Participating Member to enroll Participating Member's retail customers in the PJM demand response programs. Enrollment in this DR Program imposes market obligations on Participating Member's retail customers such as curtailing electricity when called by PJM. The PJM Emergency Capacity Market program requires the submission of 15-minute interval data, which can be collected either from utility metering or CSP shadow metering that will provide daily data

for expediting settlements. CSP can provide the necessary metering hardware, integration, and installation to meet the 15-minute requirements, under a separate project authorization, and the cost of the metering can be collected from the Customer's share of the demand response revenue until the metering installation expenses are paid in full. Additionally, pursuant to the current PJM DR programs, in order to be eligible for the Emergency Capacity Market Demand Response Program: 1) the Customer's interruptible load must be available to be curtailed for up to 10 events per year during the months of June through September; and, 2) the load curtailment must be able to be implemented within two hours of notification of a PJM-initiated load management event.

Each capacity event could last a maximum of 6 hours each, between the hours of 12:00 pm and 8:00 pm., Monday through Friday (excluding holidays). If PJM-initiated capacity events are not called, test events will be called as explained below. Compensation for capacity curtailments is in the form of a monthly payment for the MW load reduction capacity provided by Customer. This monthly payment is provided even if no capacity events are called in a given month. During PJM-initiated capacity events (emergency events) Customer may also be compensated with an energy payment calculated from the actual MW load reduction achieved by Customer during each hour of the capacity event.

For a PJM-initiated curtailment event, under compliance will result in a forfeiture of the annual projected revenues, based on full compliance, commensurate with the missed curtailment amount, but is capped at the total expected annual capacity revenue amount. Therefore, there is not an "out of pocket" payment related to an actual PJM-initiated event curtailment shortfall. The effect of the PJM-event under compliance is

that Customer forfeits 100% of the annual revenue commensurate with the MW shortfall, with the worst case scenario being that no revenue is earned by the Customer.

If PJM has not called any actual emergency events by August 15 each year, a test event becomes mandatory. For test events, CSP is required to perform a load reduction capacity test in each PJM zone during the same hours an actual event would be called. All Customers participating in a given PJM zone must test at the same time, which CSP will choose, taking into consideration among other factors, CSP forecasting, planning and operations personnel. If the total load reduction achieved in the PJM zone from all test event participants is less than the total committed load reduction, and a re-test is allowed by PJM, CSP may require individual customers to be re-tested. In the event a Customer's actual MW load reduction during a CSP-initiated load reduction capacity test or re-test falls short of the committed capacity value, PJM Test Event Failure Penalties will be assessed on the Customer. Note that any actual PJM capacity event, whether called before or after a test event, nullifies the Test Event, and no Test Event Failure Penalty would apply. The effect of this Test Event Failure Penalty is that Customer forfeits 100% of the annual revenue on the MW shortfall, plus an additional 20%. (Customer is responsible for 100% of any Test Event Failure Penalty that is assessed.) In order to ensure payment of the Test Event Failure Penalty Enerwise may (i) net any payments otherwise owed to Customer through any other PJM program, or (ii) require financial security by Customer, which Customer shall post within a reasonable timeframe.

SECTION 2.2 - 1 CP PROGRAM DESCRIPTION: By enrolling in the DR Program, Participating Member is automatically enrolled in the 1 CP Program. The

purpose of the 1 CP Program is to incentivize customers to curtail load during Participating Member-initiated events. Participating Member events are different than PJM events. Participating Member's retail customer rates include a transmission cost component. Participating Member's transmission costs are determined by evaluating Participating Member's peak load during their PJM Zone's top peak load hour. Thus, Customers that can reduce demand for electricity during the summer peaks can achieve savings in Participating Member's transmission charges the following year. As it is also in Participating Member's interest to reduce this cost as much as feasibly possible, this 1 CP Program shares the savings achieved directly with the customers in order to provide a strong incentive for customers with some flexibility in their operations to engage in this 1 CP Program.

Participating Member should expect to call peak shaving events 3-5 times with a total limitation of events (Participating Member and PJM Emergency Events) of 70 hours. There will be no test event for the Participating Member 1 CP Program incentive. Customer will then receive a portion of the transmission savings achieved through Customer's curtailment, or an amount otherwise negotiated with the Participating Member. However, there is no penalty for failing to curtail during the 1 CP events. If the Customer fails to curtail, there are simply no transmission savings to share. There are no upfront or other fees required for 1 CP Program enrollment.

ARTICLE III

TERM AND TERMINATION

Section 3.1 - TERM: Subject to the conditions contained herein, this Schedule shall be for a term beginning on January 1, 2014 and ending May 31, 2015. This Schedule will continue for successive one-year terms thereafter unless either Party

provides written notice of termination to the other Party not less than six (6) months prior to the expiration of the current term, provided that the AMP-Enerwise DR Program has continued. If the AMP-Enerwise DR Program is terminated, this contract shall automatically terminate as well.

Section 3.2 - TERMINATION: Either Party may terminate this Schedule immediately if the ELRP is materially altered, suspended or ended. Notwithstanding the foregoing, in the event that capacity is not available in the DR Program for a given period, AMP shall notify Participating Member and AMP and Participating Member shall jointly determine whether CSP may reduce a Participating Member's participation and/or terminate this Schedule. Additionally, either Party may terminate this Schedule, with or without cause, by providing to the other Party not less than one hundred eighty (180) days' prior written notice of such termination; provided, however, that if any Party terminates this Schedule pursuant to this Section, such termination shall not affect or excuse the performance of any Party under any provision of this Schedule that by its terms survives such termination.

ARTICLE IV **PAYMENT**

Section 4.1 - DR PROGRAM PAYMENT BREAKDOWN: For the Emergency Capacity Market settlement associated with a Customer site curtailment commitment related to a Base Residual Auction ("BRA"), CSP will divide the total aggregated amount as follows: (1) pay AMP 10% (half of which will be shared with the AMP Participating Member); (2) pay the Customer 60%; and 3) retain 30% for CSP. For the Emergency Capacity Market settlement amount associated with the site curtailment commitment

related to an Incremental Auction ("IA"), CSP will divide the total aggregated amount of the Emergency Capacity Market settlement amount as follows: 1) pay AMP 10% (half of which will be shared with the AMP Participating Member); (2) pay the Customer 70%; and 3) retain 20% for CSP. For the Emergency Energy Market settlement associated with the Customer site curtailment, CSP will divide the total aggregated amount of the Emergency Energy Market settlement amount as follows: (1) pay the Customer 80%; and (2) retain 20% for CSP. Any failure penalty imposed by PJM shall be subtracted from the payment amount on a *pro rata* basis. CSP will pay AMP and the Customers directly. Participating Member credits will be based upon registrations within the member's municipal electric system. AMP will provide credits to Participating Members on the Member's bill. The initial credit will cover the first four (4) months of the delivery year, and will be distributed to Participating Member after the capacity registration compliance has been calculated.

Section 4.2 - DR PAYMENT VALUE: Compensation for RPM is in the form of a monthly payment for the MW load reduction capacity provided by Customer. This monthly payment is provided even if no capacity events are called in a given month. During RTO-initiated capacity events (emergency events) Customer may also be compensated with an energy payment calculated from the actual MW load reduction achieved by Customer during each hour of the capacity event.

For the 2014-2015 program, which will run from June 1, 2014 through May 31, 2015, the value for the RPM Capacity Market will be \$125.47 per megawatt-day, or \$45,796 per megawatt-year.

Section 4.3 - 1 CP PROGRAM PAYMENT: When Customers comply with Participating Member-initiated events, Customer will then receive 50% of the transmission savings achieved through Customer's curtailment, or an amount otherwise negotiated with the Participating Member. Customers will receive (1) check in the amount of their determined incentive by May 2015, or will receive a credit to their bill from Participating Member. Participating Members may choose to supply the credit in one lump sum for the year, or may apply a credit equally for 12 months. However, there is no penalty for failing to curtail during the 1 CP events. If the Customer fails to curtail, there are simply no transmission savings to share.

ARTICLE V **SCOPE OF WORK**

Section 5.1 - CSP OBLIGATIONS: CSP shall be responsible for all activities, perform all duties and furnish all necessary resources (except as otherwise provided herein) to successfully participate in the PJM ELRP and to provide the services for this DR Program. Changes to the CSP's Scope of Work, set forth in Appendix A hereto, may be made only by mutual written agreement of both AMP and CSP.

Section 5.2 - PARTICIPATING MEMBER OBLIGATIONS: Participating Member's obligations will include, but are not limited to, the following:

- a. To the extent not already done, in order to participate in this DR Program, Participating Member must designate AMP as an authorized designee to provide curtailment services to and within Participating Member's service area.
- b. Advise AMP and/or CSP of Customers who are likely to participate.
- c. Promptly review all marketing and sales material, and provide feedback and any necessary approvals.

- d. Enter into AMP-approved contracts with CSP and Customers for participation in the Programs.
- e. Schedule, participate in and lead sales calls, which may be scheduled by AMP. Alternatively Participating Member may request that AMP or CSP schedule and lead sales calls with Customers, AMP and Participating Member. Provide follow-up contact and respond to Customer inquiries within a reasonable amount of time.
- f. Communicate information requested by AMP in order to monitor, verify or assist with the 1 CP Program, 1 CP peak shaving events, the DR Program, PJM emergency or test events or any other data or information as requested by AMP.
- g. Provide regular progress reports to AMP and attend meetings via conference call on a mutually agreed upon schedule. Participating Member shall work cooperatively with AMP to develop appropriate formats for the Program's required reports under this Schedule.

ARTICLE VI MISCELLANEOUS PROVISIONS

Section 6.1 - AMENDMENT: No changes, modifications, amendments or extensions in the terms and conditions of this Schedule shall be effective unless reduced to writing and signed by the duly authorized representatives of AMP and Participating Member.

Section 6.2 - NOTICE: Transmittals of formal notifications, requests, reports or other formal documents required by this Schedule, to be effective, shall be addressed to the respective persons as follows:

Participating Member

Joseph Waltz
Director, Energy Services
Town of Front Royal
PO Box 1560
Front Royal, VA 22630
540-635-3027 (office)
540-635-5497 (fax)

jwaltz@frontroyalva.com

AMP

Alice Wolfe
Assistant Vice President of Power Supply Planning
and Alternative Generation
American Municipal Power, Inc.
1111 Schrock Rd., Suite 100,
Columbus, OH 43229
(614) 540-6389
Email: awolfe@ampppartners.org

Copies To:
Lisa McAlister
Deputy General Counsel
American Municipal Power, Inc.
1111 Schrock Road, Suite 100
Columbus, Ohio 43229
(614) 540-6400
Email: lmcaster@ampppartners.org

Parties may change their contact person(s) at any time upon written notice.

Section 6.3 - INDEMNIFICATION: Participating Member shall hold harmless, indemnify and defend AMP, Members, and their officers, directors, agents and employees against all claims or suits arising in whole or in part from any act or omission of AMP or any agent or subcontractor of AMP in performing work under this Schedule.

Section 6.4 - RECORDS AVAILABLE FOR AUDIT AND INSPECTION:
Participating Member shall make all records, books, documents, data systems, accounting records and other evidence relating to this Schedule, available at reasonable times during the period of this Schedule and for seven (7) years thereafter for inspection by AMP, Members or any other authorized representative of AMP. Storage of electronic images of documents shall comply with the requirements of this Paragraph. If any litigation, claim, or audit is started before the expiration of the seven

(7) year period, all of the records shall be retained until all litigation, claims or audit finding involving the records has been resolved.

Section 6.5 - OWNERSHIP OF DATA: All data obtained by AMP in the course of performing the duties outlined in this Schedule shall be the property of AMP or the Municipality and shall be made available to AMP (and its designated representatives) for the oversight of this Schedule at all reasonable times.

IN WITNESS HEREOF, the Parties execute this Schedule on this ____ day of February, 2014.

AMERICAN MUNICIPAL POWER, INC.

TOWN OF FRONT ROYAL, VIRGINIA

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: Marc S. Gerken, P.E., President/CEO

Name: _____

APPROVED AS TO FORM:

By: _____

John W. Bentine

Senior Vice President & General Counsel

APPENDIX A SCOPE OF CSP's WORK

CSP's obligations will include, but are not limited to, the following:

- a. Provide AMP with regular updates on available capacity. In the event that capacity is not available in any of the programs in which a Customer is enrolled for any given period, CSP shall immediately notify AMP and provide a list of Customers enrolled and the duration of enrollment for which there is not capacity available.
- b. Advise Participating Members on identifying Customers who are likely to participate.
- c. Prepare marketing and sales material, and draft Customer contracts in coordination with and subject to final approval by AMP.
- d. Enter into AMP-approved contracts with Customers and Participating Member for participation in the Program.
- e. Participate and lead sales calls scheduled by the Participating Member, or scheduled by AMP if requested by the Participating Member. At Participating Member's request, schedule and lead sales calls with Customers, potential customers, AMP and Participating Member. Provide follow-up contact and respond to Customer and potential customer inquiries within a reasonable amount of time.
- f. Maintain a complete list of Customers and Customer contact information for notification and provide to AMP in MS Excel format for Participating Member/AMP use. Provide periodic updates to the Customer list as necessary.
- g. Advise Participating Member on determining retail Customer peak load contribution, as necessary.
- h. Assist Customers with identifying and maximizing potential KWs eligible for participation in the Program. CSP shall work with Customers to determine and confirm available qualifying load. This shall include, but not be limited to: determining the annual load profile of Customer's site using interval data and utility bills; developing a baseline of current energy expenditures as a benchmark for optimization; gathering load curtailment and shedding capabilities and restrictions for each; conducting a final

review of ELRP programs available to Customer; and, providing a report of the estimated economic benefit to Customer.

- i. Work with Customer to establish Customer bid strategy and the level of desired participation as required.
- j. Assist Customers with identifying environmental permits required to demonstrate eligibility for the program.
- k. Advise Participating Member and Customers on metering requirements. Provide metering, as needed, and provide AMP and Participating with access to the meter data.
- l. Register Customers' qualifying load into the ELRP through PJM's eLRS system.
- m. Provide a summary of operational details to Customers and begin performance of routine remote generator and load checks to assure readiness as required.
- n. For events: Provide notification of emergency events to affected Participants. Gather and submit meter data to PJM. Assist Participants with identifying if curtailment was sufficient. Notify AMP and Participant at the conclusion of each event. Provide settlement information to RTO. Calculate and provide estimated earnings for participation to AMP and Participant.
- o. For tests: Conduct system tests, as appropriate. Provide advance notification of schedule to Customers. Gather and submit meter data to PJM. Assist Customers with identifying if curtailment was sufficient. Notify AMP and Customer at the conclusion of each test. Provide settlement information to RTO. Calculate and provide estimated earnings for participation to AMP and Customer.
- p. Calculate and disburse settlement funds to AMP for Customer participation as outlined herein.
- q. AMP intends to conduct a 1 coincidental peak (1 CP) peak shaving program ("AMP 1 CP Program") in coordination with this Program. Customers who contract with CSP for this demand response Program will be required to participate in the 1 CP Program as well, with the exclusion of back-up generators fueled by diesel. CSP will be responsible for

communicating the 1 CP peak shaving events to Customers as requested by AMP.

- r. Monitor changes in PJM requirements. Provide regular updates to Customers, Participating Members and AMP.
- s. Provide regular progress reports to AMP and attend meetings via conference call on a mutually agreed upon schedule. CSP shall work cooperatively with AMP to develop appropriate formats for the Program's required reports under this Schedule.
- t. Provide responses to Customer, Participating Member, and/or AMP questions within a reasonable time period.
- u. Participate in an annual end-of-season meeting to evaluate program performance and identify future improvements. Provide annual report for AMP Board of Trustees.
- v. CSP is prohibited from marketing to retail Customers in AMP Member communities who are not subscribed to the Program.

For the entire term of this Schedule, CSP shall coordinate its performance as appropriate, or as directed by AMP, with the Participating Members and Customers.

TOWN OF FRONT ROYAL, VIRGINIA

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING THE EXECUTION
OF PARTICIPATING MEMBER SCHEDULE
WITH AMERICAN MUNICIPAL POWER, INC. ("AMP") TO ENROLL IN THE
AMP-ENERWISE DEMAND RESPONSE AND 1 CP PILOT PROGRAMS**

WHEREAS, the Town of Front Royal, Virginia (the "Municipality") is a political subdivision organized and existing pursuant to the laws of the state of Virginia, which owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and customers; and

WHEREAS, in order to satisfy the electric power ("capacity") and energy requirements of its electric utility system, the Municipality has heretofore purchased economical and reliable power and energy from AMP, an Ohio non-profit corporation, of which the Municipality is a member, or has heretofore purchased power arranged by AMP; and

WHEREAS, the Municipality, acting individually and, along with other municipalities which own and operate electric utility systems, jointly through AMP, endeavors to arrange for reliable, reasonably priced supplies of electric power and energy for ultimate delivery to its customers; and

WHEREAS, Municipality has executed a Master Services Agreement with AMP which sets forth the general terms and conditions for the provision of power supply and other services by AMP to the Municipality; and

WHEREAS, Municipality is the relevant electric retail regulatory authority ("RERRA") over its own distribution systems and may designate AMP as an authorized designee in order for Municipality to participate in the Demand Response ("DR") Program to assist the grid during emergency conditions while receiving capacity

payments and achieving transmission savings pursuant to the terms and conditions as set forth herein;

WHEREAS, Municipality desires to participate in the 1 coincidental peak ("1 CP") peak shaving program ("1 CP Program") to achieve transmission savings pursuant to the terms and conditions as set forth herein;

WHEREAS, AMP, has prepared and delivered to the Municipality the form of a Participating Member Schedule, pursuant to which the Municipality may enroll in the DR and 1 CP Programs; and

WHEREAS, AMP has provided and will continue to provide appropriate personnel and information regarding the DR and 1 CP Programs to enable the Municipality to evaluate the benefits and risks of the Programs, to take actions contemplated by the Ordinance hereinafter set forth and to determine that the same are in the public interest; and

WHEREAS, in recognition of the unique nature of the Programs described herein, competitive bidding is not required on the Municipality's participation therein, however, any competitive bidding requirement that might otherwise be applicable for the participation in the Programs authorized by this Ordinance, should be waived; and

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF FRONT ROYAL, VIRGINIA.

SECTION 1. That the form of the Participating Member Schedule between this Municipality and AMP, substantially in the form attached hereto as Exhibit 1, is approved, subject to and with any and all changes provided for herein and therein.

SECTION 2. That the Director of Energy Services or his/her designee are hereby authorized to execute the Participating Member Schedule and to enroll in the DR and 1 CP Programs with AMP, and is further authorized to execute and deliver any and all documents necessary to participate in the DR and 1 CP Programs, pursuant to the

conditions set forth herein for a term of one year, as set forth in the Participating Member Schedule.

SECTION 3. That, to the extent not already so designated, the Municipality hereby designates AMP as an authorized designee permitted to serve as a curtailment services provider ("CSP"), either directly or through an agent, in the Municipality's electric service area.

SECTION 4. That competitive bidding is not required on the Municipality's participation in the DR or 1 CP Programs, and in the event any competitive bidding requirements are applicable, any such competitive bidding requirement that might otherwise be applicable, are hereby waived.

SECTION 5. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of a quorum of the Council, and that all deliberations of this Council and of any its committees that resulted in such formal action, were held in meetings open to the public, in compliance with all legal requirements.

SECTION 6. If any section, subsection, paragraph, clause or provision or any part thereof of this Ordinance shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Ordinance shall be unaffected by such adjudication and all the remaining provisions of this Ordinance shall remain in full force and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

SECTION 7. That this Ordinance shall take effect at the earliest date allowed by law.

SECTION 8. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in conformance with applicable open meetings laws and that all deliberations of this Council and of any committees that resulted in those formal actions were in compliance with all legal requirements including any applicable open meetings requirements. **[This section, or its equivalent, is mandatory in Ohio and may or may not be in other states. Please consult with your legal counsel.]**

4815-7880-1688, v. 1

Town of Front Royal, Virginia
Work Session Agenda Form

Meeting Agenda Item No. 4

Date: March 3, 2014

Agenda Item: Johnny Blue Toilet Systems Disposal Request

Summary: The Town has received a request from Kristen Bush with Johnny Blue Toilet Systems that the Town consider establishing a rate agreement with their firm to treat septage received from the South Fork Bridge Project. The Town currently charges \$25 per 1,000 gallons and the County charges \$75 per 2,000 gallons. Based upon their contract, the firm will be hauling approximately 500 gallons of septage from the bridge project.

Council Discussion: Council is requested to consider reducing the disposal fee for septage associated with the South Fork Bridge Project.

Staff Evaluation: The County Administrator has indicated that the County will not consider waiver of their fee. In addition, the Town will be initiating improvements at the Wastewater Treatment Plant this year that could ultimately affect the cost for septage treatment.

Budget/Funding: The Director of Finance will be available to address fiscal issues.

Legal Evaluation: The Town Attorney will be available to address legal issues.

Staff Recommendations: Staff recommends that Council not establish an agreement for a reduced treatment fee for septage from the South Fork Bridge Project.

Town Manager Recommendation: The Town Manager recommends that Council not establish an agreement for a reduced treatment fee for septage from the South Fork Bridge Project.

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action

Consensus Poll on Action: ____ (Aye) ____ (Nay)



Winchester, VA 22603
Telephone: (540) 665-0968
Fax: (540) 662-6151

Rental and Service Agreement

Billing Information

GA + FC Wagman
3290 Susquehanna Trail
York, PA 17406

(703) 869-7515

Number: 019420

Job Number:

Original P.O. Number:

Terms: Net 30

MapGrid:

MapBook:

ServiceArea: Warren County

Rental Tax Percent: 5.3

Rental Tax Area: Virginia Sales Tax

Service Tax Percent: 5.3

Service Tax Area: Virginia Sales Tax

Job Site Information

Joe Nestlerode 717-577-8630
260 W Duck St

Special Instructions: 522 South into Front Royal, over River, Right on Duck St, go 0.4 miles on Right #

DELIVER 1 unit, plus Tank for Trailer (Simple install only)
Stock Trailer and Toilets with Sanitizer

Front Royal, VA

Cross Streets:

Date	Service or Unit Type	Quantity	Billing Method	Price Per	Minimum	Dmg. Wvr. or Minim.	Delivery or Trip Charge	Deposit	Tax
23-Jan-2014	Service	1	Month Fixed En	\$0.00	\$0.00	Weekly	\$0.00	\$0.00	N
			Start Service	Orange		Wed			
23-Jan-2014	Office Trailer Unit	1	Month Fixed En	\$	\$		\$0.00	\$0.00	Y
			Delivery			Extension			
23-Jan-2014	Service	1	Month Fixed En	\$0.00	\$0.00	Weekly	\$0.00	\$0.00	N
			Start Service	Orange		Wed			
23-Jan-2014	Construction with Sanitizer	1	Month Fixed En	\$	\$		\$0.00	\$0.00	Y
			Delivery			Extension			
23-Jan-2014	Service	1	Month Fixed En	\$0.00	\$0.00	Weekly	\$0.00	\$0.00	N
			Start Service	Orange		Wed			
23-Jan-2014	Dispenser Stocked	1	Month Fixed En	\$10.00	\$10.00		\$0.00	\$0.00	Y
			Delivery			Extension		\$10.00	

* OFFICE Trailer system - 1 water supply tank and
1 waste tank (250 gallon
(serviced/pumped weekly.)

Customer agrees to the following terms and conditions. THIS IS A BINDING AGREEMENT.

Customer shall pay all expenses including Attorney fees of 15% and court cost incurred by lesser in enforcing any provisions hereof. It is understood that JOHNNY BLUE will not be responsible for any personal injury or property damage arising out of use or maintenance of units leased under this agreement, and Customer assumes all liability for all personal injury or property damage for the duration of the agreement. Customer is responsible for any loss, theft or damage of units leased under the agreement and will be responsible for replacement cost of unit or pay estimated repair costs of parts and labor. Payments for loss, theft, or damage are due upon demand by lesser. Customer guarantees access to units for servicing. Sales tax, where applies. All down payments are nonrefundable. Subject to Cancellation Fee of 25% of rental total - SIGN AND RETURN THIS AGREEMENT. Protect your rental with a \$7 Damage Waiver. (monthly rentals only).

Subtotal Non-Taxable: \$
Subtotal Rental Taxable: \$
Subtotal Service Taxable: \$
Subtotal Rental Tax: \$
Subtotal Service Tax: \$

Grand Total:

Unit
Numbers

Signature and Title of Customer Representative

Date

Service
Route

Telephone: (540) 665-0968

Fax: (540) 662-6151

Rental and Service Agreement

Billing Information

GA + FG Wagman
3290 Susquehanna Trail
York, PA 17406

(703) 869-7515

Number: 019422

Job Number:

Original P.O. Number:

Terms: Net 30

MapGrid:

MapBook:

ServiceArea: Warren County

Rental Tax Percent: 5.3

Rental Tax Area: Virginia Sales

Service Tax Percent: 5.3

Service Tax Area: Virginia Sales

Job Site Information

Joe 717-577-8630

Strasburg Ave (Off 522/340) between b

Front Royal, VA

Special Instructions: 522 South, over 1st bridge, to Strasburg Ave, to trailer

Tank for Trailer, Simple install only.
STOCK TRAILER WITH SANITIZER

Cross Streets:

Date	Service or Unit Type	Quantity	Billing Method	Price Per	Minimum	Dmg. Wvr. or Minim.	Delivery or Trip Charge	Deposit
23-Jan-2014	Service	1	Month Fixed En	\$0.00	\$0.00	Weekly	\$0.00	\$0.00
			Start Service	Orange		Wed		
23-Jan-2014	Office Trailer Unit	1	Month Fixed En	\$	\$	\$0.00	\$0.00	\$0.00
			Delivery			Extension		\$
23-Jan-2014	Service	1	Month Fixed En	\$0.00	\$0.00	Weekly	\$0.00	\$0.00
			Start Service	Orange		Wed		
23-Jan-2014	Dispenser Stocked	1	Month Fixed En	\$10.00	\$10.00	\$0.00	\$0.00	\$0.00
			Delivery			Extension		\$10.0

* OFFICE Trailer system - 1 water supply tank and
1 waste tank (250 gallon capacity)
(serviced/pumped weekly).

Customer agrees to the following terms and conditions. THIS IS A BINDING AGREEMENT.

Customer shall pay all expenses including Attorney fees of 15% and court cost incurred by lesser in enforcing any provisions hereof. It is understood that JOHNNY BLUE will not be responsible for any personal injury or property damage arising out of use or maintenance of units leased under this agreement, and Customer assumes all liability for all personal injury or property damage for the duration of the agreement. Customer is responsible for any loss, theft or damage of units leased under the agreement and will be responsible for replacement cost of unit or pay estimated repair costs of parts and labor. Payments for loss, theft, or damage are due upon demand by lesser. Customer guarantees access to units for servicing. Sales tax, where applies. All down payments are nonrefundable. Subject to Cancellation Fee of 25% of rental total -SIGN AND RETURN THIS AGREEMENT. Protect your rental with a \$7 Damage Waiver. (monthly rentals only).

Subtotal Non-Taxable:
Subtotal Rental Taxable: \$
Subtotal Service Taxable:
Subtotal Rental Tax:
Subtotal Service Tax:

Grand Total: \$

Unit
Numbers

Signature and Title of Customer Representative

Date

Service



Town of Front Royal, Virginia
Work Session Agenda Form

Date: March 3, 2014

Agenda Item: Fireworks Ordinance Amendment

Summary: Warren County has amended Chapter 96 regulating the storage and display of fireworks and established oversight by the Fire Marshal. The County's Amendment includes the approval of the Town Manager for storage and display of fireworks in the Town limits. Staff have developed Amendments to Chapter 80 of the Town Code to conform with the new County regulations.

Council Discussion: Council is requested to consider the proposed Amendment to Chapter 80 regulating the storage and display of fireworks within the Town limits.

Staff Evaluation: The proposed Amendment to Chapter 80 defers permit approval to the Warren County Fire Marshal. At the October 21st Work Session, Council requested that staff confirm that the Ordinance Amendment comply with both the County and State fireworks regulations.

Budget/Funding: The Director of Finance will be available to address fiscal issues.

Legal Evaluation: The Town Attorney will be available to address legal issues.

Staff Recommendations: Staff recommends that Council consider amending Chapter 80 of the Town Code as proposed.

Town Manager Recommendation: The Town Manager recommends that Council consider amending Chapter 80 of the Town Code as proposed.

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
Consensus Poll on Action: ____ (Aye) ____ (Nay)

ORDINANCE TO AMEND CHAPTER 80 OF THE FRONT ROYAL TOWN CODE PERTAINING TO FIREWORKS

WHEREAS, the County of Warren has instituted a Fire Marshall to oversee and regulate fire related issues in the County; and,

WHEREAS, the County of Warren has recently amended Chapter 96 of the County Code regulating the storage and display of fireworks; and,

WHEREAS, the County of Warren regulations require approval of the Town Manager for storage and display of fireworks within the Town limits; and,

WHEREAS, the Town desires to simplify the process of regulating the storage and display of fireworks; and,

NOW, THEREFORE, BE IT ENACTED by the Town Council of the Town of Front Royal, Virginia the Chapter 80 of the Front Royal Code be hereby amended as follows:

80-1 PROHIBITIONS

No person, firm or corporation shall store, use, possess, manufacture, sell or offer for sale firework as defined by VAC 27-95 to include any firecracker, torpedo, skyrocket or other substance or thing of whatever form or construction that contains any explosive or inflammable compound or substance, containing nitrates, chlorates, oxalates, sulfides of lead, barium, antimony, nitroglycerin, phosphorous or any other explosive or flammable compound or substance and intended or commonly known as "fireworks".

80-2 EXCEPTIONS

A. This chapter shall not apply to the use or the sale of permissible fireworks as defined by VAC 27-95 sparklers, fountains, pharaoh's serpents, caps for pistols or to pinwheels commonly known as "whirligigs" or "spinning jennys", provided that said fireworks listed in this section may only be used, ignited or exploded on private property with the consent of the owner of such property.

B. This chapter shall have no application to any officer or member of the Town Police Department or the Armed Forces of this state or the United States while acting within the scope of his authority and duties as such, nor shall it be applicable to the sale or use of said materials when used or to be used by any person for signaling or other emergency use in the operation of boat, railroad train or other vehicle for the transportation of persons or property.

80-3 PERMITS FOR FIREWORKS DISPLAY

~~The Town Council of Front Royal shall have the power to provide for the issuance of permits, upon application in writing, for the display of fireworks by fair associations, amusement parks or by any organization or group of individuals under such terms and conditions as the Town~~

~~Council may prescribe and upon payment of an application fee of fifty dollars (\$50.) After such permit has been issued, sale, storage, use and possession of fireworks may be made for use under such permit.~~ **Any storage or display of fireworks within the Town limits shall be required to obtain a permit from the Warren County Fire Marshall**

80-4 VIOLATIONS AND PENALTIES

Violations of this chapter shall be punished as misdemeanors.

This ordinance shall become effective upon passage.

APPROVED:

Timothy W. Darr, Mayor

ATTEST:

Jennifer E. Berry, Clerk of Council

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia on its second reading, conducted _____, 2014, upon the following recorded vote:

Thomas H. Sayre	Yes/No	Bret W. Hrbek	Yes/No
Hollis L. Tharpe	Yes/No	Eugene R. Tewalt	Yes/No
N. Shae Parker	Yes/No	Daryl L. Funk	Yes/No

A public hearing on the above was held on _____, 2014 having been advertised in the Northern Virginia Daily on _____, 2014 and _____, 2014. The Ordinance was enacted at the Regular Meeting of the Town Council held _____ 2014.

Approved as to form and legality:

Douglas W. Napier, Town Attorney

Date: ____/____/____

Chapter 96. FIREWORKS

[HISTORY: Adopted by the Board of Supervisors of Warren County as Ch. 8, Art. II, of the 1975 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Amusements – See Ch. 63.

Fire protection and prevention — See Ch. 93.

Noise – See Ch. 123.

§ 96-1. Purpose.

The regulations contained in this chapter are hereby adopted to provide for the issuance of permits to fair associations, amusement parks and organizations and groups of individuals for the display of fireworks and to regulate the use and display of fireworks upon the granting of permits.

§ 96-2. Permit application; fee.

[Amended 6-18-2013]

- A. Written application for a permit to display fireworks shall be made in triplicate to the County Fire Marshal at least 10 days prior to the requested display date, stating the time, place, type of fireworks and circumstances under which they are proposed to be displayed.
- B. Each such application shall name at least one person who shall participate in displaying the fireworks that has a valid Virginia Pyrotechnicians Operator's License.
- C. Each applicant must pay a fee of \$100 at least 10 days before the requested display date. All checks should be made out to the Warren County Treasurer's Office. A nonprofit organization is not required to pay the fee under this subsection. This subsection is effective on January 1, 2014, and thereafter.
- D. Each applicant shall file with the Fire Marshal a valid policy of liability insurance from an insurance company authorized to conduct business in the Commonwealth of Virginia naming the County of Warren as an additional insured party in an amount deemed adequate by the Fire Marshal.

§ 96-3. Approval of application; storage period; conditions; approval of certain locations; nontransferability.

[Amended 6-18-2013]

- A. Upon approval of an application for a permit to display fireworks, the County Fire Marshal or Fire Chief shall write across such application the wording "Approved," and the application shall be dated and signed by him, which date shall constitute the beginning of a thirty-day storage period permitted for such fireworks as provided in § 96-7, and all fireworks covered by such permit shall be displayed or discharged within such thirty-day period.

- B. The Fire Marshal may specify in the permit any conditions that he shall deem necessary to protect persons and property.
- C. All locations within the Town of Front Royal limits shall receive approval of the Town of Front Royal Manager.
- D. Any permit, issued by the Fire Marshal, shall not be transferable.

§ 96-4. Disposition of copies of approved application.

[Amended 6-18-2013]

One copy of each application for a permit to display fireworks shall be kept on file by the County Fire Marshal's office until after the date the fireworks are displayed, and two copies, after being approved as aforesaid, which will then become a permit to display fireworks, shall be returned to the applicant, who shall keep one copy on file for 60 days after displaying such fireworks, and one copy shall be in possession of the person in charge of displaying the fireworks at the time and place they are being displayed.

§ 96-5. (Reserved)

Editor's Note: Former § 96-5, Display to be under supervision of peace officer, was repealed 7-16-1990.

§ 96-6. Persons authorized to participate in display; compliance with other provisions.

[Amended 7-16-1990]

- A. Not more than three persons shall participate in displaying fireworks at one time, and all shall be persons over the age of 21 years.
- B. All fireworks displays must be in accordance with the NFPA 1123 (Fireworks Displays); NFPA 1126 (Use of Pyrotechnics Before a Proximate Audience); and NFPA 160 (Use of Flame Effects before an Audience).

[Added 6-18-2013]

- C. All fireworks displays must be in accordance with the Virginia Statewide Fire Prevention Code.

[Added 6-18-2013]

§ 96-7. Storage.

Prior to the use of fireworks pursuant to a permit, they shall be stored in a metal container in a building of masonry, concrete or other firm construction so that members of the public cannot have access to them, and such fireworks shall not be stored in the County for a period in excess of 30 consecutive days.

§ 96-8. Location of spectators.

No spectator or member of the public other than those who are participating in displaying or discharging the fireworks shall be closer than 50 feet to the place where such fireworks are being displayed or discharged.

§ 96-9. Violations and penalties.

[Added 6-18-1990]

Any person who shall violate any provision of this chapter shall be subject to a penalty as set forth in Chapter 1, § 1-11, of the Warren County Code.

§ 27-95. Definitions.

As used in this chapter, unless the context or subject matter requires otherwise, the following words or terms shall have the meaning herein ascribed to them:

"Board" means the Board of Housing and Community Development.

"Code provisions" means the provisions of the Fire Prevention Code as adopted and promulgated by the Board, and the amendments thereof as adopted and promulgated from time to time by such Board.

"Enforcement agency" means the agency or agencies of any local governing body or the State Fire Marshal charged with the administration or enforcement of the Fire Prevention Code.

"Fire Prevention Code" or "Code" means the Statewide Fire Prevention Code.

"Fire prevention regulation" means any law, rule, resolution, regulation, ordinance or code, general or special, or compilation thereof to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling and use of substances, materials and devices, including explosives and blasting agents, wherever located, heretofore or hereafter enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions or other agencies.

"Fire Services Board" means the Virginia Fire Services Board as provided for in § [9.1-202](#).

"Fireworks" means any firecracker, torpedo, skyrocket, or other substance or object, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known as fireworks, and which explodes, rises into the air or travels laterally, or fires projectiles into the air.

"Fireworks operator" or "pyrotechnician" means any person engaged in the design, setup, and firing of any fireworks other than permissible fireworks either inside a building or structure or outdoors.

"Inspection warrant" means an order in writing, made in the name of the Commonwealth, signed by any judge or magistrate whose territorial jurisdiction encompasses the building, structure or premises to be inspected or entered, and directed to a state or local official, commanding him to enter and to conduct any inspection, examination, testing or collection of samples for testing required or authorized by the Virginia Statewide Fire Prevention Code.

"Local government" means the governing body of any city, county or town in this Commonwealth.

"Permissible fireworks" means any sparklers, fountains, Pharaoh's serpents, caps for pistols, or pinwheels commonly known as whirligigs or spinning jennies.

"State Fire Marshal" means the State Fire Marshal as provided for by § [9.1-206](#).

(1986, c. 429; 1988, cc. 340, 549; 1989, c. 258; 2002, c. [856](#); 2010, cc. [587](#), [643](#).)

§ 27-96. Statewide standards.

The purposes of this chapter are to provide for statewide standards for optional local enforcement to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling, and use of substances, materials and devices, including fireworks, explosives and blasting agents, wherever located.

(1986, c. 429; 1988, c. 340; 2002, c. 856.)

[prev](#) | [next](#) | [new search](#) | [table of contents](#) | [home](#)

§ 27-96.1. Chapter inapplicable to certain uses of fireworks.

Unless prohibited by a local ordinance, the provisions of this chapter pertaining to fireworks shall not apply to the sale of or to any person using, igniting or exploding permissible fireworks on private property with the consent of the owner of such property.

(2002, c. [856](#).)

[prev](#) | [next](#) | [new search](#) | [table of contents](#) | [home](#)

§ 27-96.2. Exemptions generally.

The provisions of this chapter concerning fireworks shall have no application to any officer or member of the armed forces of this Commonwealth, or of the United States, while acting within the scope of his authority and duties as such, nor to any offer of sale or sale of fireworks to any authorized agent of such armed forces; nor shall it be applicable to the sale or use of materials or equipment, otherwise prohibited by this chapter, when such materials or equipment is used or to be used by any person for signaling or other emergency use in the operation of any boat, railroad train or other vehicle for the transportation of persons or property.

(2002, c. [856](#).)

[prev](#) | [next](#) | [new search](#) | [table of contents](#) | [home](#)

§ 27-97. Adoption of Fire Prevention Code.

The Board of Housing and Community Development is hereby empowered to adopt and promulgate a Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board pursuant to procedures agreed to by the two Boards. The Fire Prevention Code shall prescribe regulations to be complied with for the protection of life and property from the hazards of fire or explosion and for the handling, storage, sale and use of fireworks, explosives or blasting agents, and shall provide for the administration and enforcement of such regulations. The Fire Prevention Code shall require manufacturers of fireworks or explosives, as defined in the Code, to register and report information concerning their manufacturing facilities and methods of operation within the Commonwealth in accordance with regulations adopted by the Board. In addition to conducting criminal background checks pursuant to § 27-97.2, the Board shall also establish regulations for obtaining permits for the manufacturing, storage, handling, use, or sales of fireworks or explosives. In the enforcement of such regulations, the enforcing agency may issue annual permits for such activities to any state regulated public utility. Such permits shall not apply to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1.

The Fire Prevention Code shall prohibit any person, firm, or corporation from transporting, manufacturing, storing, selling, offering for sale, exposing for sale, or buying, using, igniting, or exploding any fireworks except for those persons, firms, or corporations that manufacture, store, market and distribute fireworks for the sole purpose of fireworks displays permitted by an enforcement agency or by any locality.

The Fire Prevention Code shall supersede fire prevention regulations heretofore adopted by local governments or other political subdivisions. Local governments are hereby empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure, including the voluntary installation of smoke alarms and regulation and inspections thereof in commercial buildings where such smoke alarms are not required under the provisions of the Code. The Fire Prevention Code shall prohibit any person not certified by the State Fire Marshal's Office as a fireworks operator or pyrotechnician to design, set up, or conduct or supervise the design, setup, or conducting of any fireworks display, either inside a building or structure or outdoors and shall require that at least one person holding a valid certification is present at the site where the fireworks display is being conducted. Certification shall not be required for the design, storage, sale, use, conduct, transportation, and set up of permissible fireworks or the supervision thereof or in connection with any fireworks display conducted by a volunteer fire department provided one member of the volunteer fire department holds a valid certification.

In formulating the Fire Prevention Code, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations including, but not limited to, standards of the International Code Council, the National Fire Protection Association, and recognized organizations issuing standards for the protection of the public from the hazards of explosives and blasting agents. Such standards shall be based on the companion document to the model building code referenced by the Uniform Statewide Building Code.

The Fire Prevention Code shall require that buildings constructed prior to 1973 be maintained in accordance with state fire and public building regulations in effect prior to March 31, 1986, and that any building which is (i) more than 75 feet or more than six stories high and (ii) used, in whole or in part, as a dormitory to house students by any public or private institution of higher education shall be required to comply with the provisions of § 36-99.3. The Fire Prevention Code shall also require annual fire drills in all buildings having floors used for human occupancy located more than 75 feet above the lowest level of fire department vehicle access. The drills shall be conducted by building staff personnel or the owner of the building in accordance with a plan approved by the appropriate fire official and shall not affect other current occupants. The Board may modify, amend or repeal any Code provisions as the public interest requires. Any such Code changes shall be developed in cooperation with the Fire Services Board pursuant to procedures agreed to by the two Boards.

§ 27-97.2. Issuance of permit; background investigations.

A. The State Fire Marshal or other issuing authority shall consider all permit applications for manufacturing, storage, handling, use or sales of explosives and applications for certification as a blaster or as a fireworks operator or pyrotechnician, and may grant a valid permit or certification to applicants who meet the criteria established in the Statewide Fire Prevention Code. The State Fire Marshal shall require a background investigation, to include a national criminal history record information check, of all individual applicants and all designated persons representing an applicant that is not an individual, for a permit to manufacture, store, handle, use or sell explosives, and for any applicant for certification as a blaster or as a fireworks operator or pyrotechnician. Each such applicant shall submit his fingerprints to the State Fire Marshal on a form provided by the State Fire Marshal and provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history record check regarding such applicant. Any firm or company manufacturing, storing, using, or selling explosives shall provide to the enforcement agency, the State Fire Marshal or other issuing authority the name of a representative responsible for (i) ensuring compliance with state law and regulations relating to blasting agents and explosives and (ii) applying for permits. The State Fire Marshal or other issuing authority shall deny any application for a permit or for certification as a blaster or as a fireworks operator or pyrotechnician if the applicant or designated person representing an applicant has been convicted of any felony, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority. The provisions of this section shall not apply to the manufacturing, storage, handling, use or sales of permissible fireworks or in connection with any fireworks display conducted by a volunteer fire department provided one member of the volunteer fire department holds a valid certification.

B. No permit under this section shall be required of any person holding a certification or permit issued pursuant to the provisions of Title 45.1.

(2000, cc. [951](#), [1065](#); 2007, cc. [647](#), [741](#); 2010, cc. [587](#), [643](#).)

§ 27-98. Enforcement of Fire Prevention Code; appeals from decisions of local enforcing agencies; inspection of buildings.

Any local government may enforce the Fire Prevention Code in its entirety or with respect only to those provisions of the Fire Prevention Code relating to open burning, fire lanes, fireworks, and hazardous materials. If a local governing body elects to enforce only those provisions of the Fire Prevention Code relating to open burning, it may do so in all or in any designated geographic areas of its jurisdiction. The State Fire Marshal shall also have the authority, in cooperation with any local governing body, to enforce the Code. The State Fire Marshal shall also have authority to enforce the Code in those jurisdictions in which the local governments do not enforce the Code and may establish such procedures or requirements as may be necessary for the administration and enforcement of the Code in such jurisdictions. In addition, subject to the approval of the Board of Housing and Community Development, the State Fire Marshal may charge a fee to recover the actual cost of administering and enforcing the Code in jurisdictions for which he serves as the enforcement authority. No fee may be charged for the inspection of any school. The local governing body of any jurisdiction that enforces the Code may establish such procedures or requirements as may be necessary for the administration and enforcement of the Code. Appeals concerning the application of the Code by the local enforcing agency shall first lie to a local board of appeals and then to the State Building Code Technical Review Board. Appeals from the application of the Code by the State Fire Marshal shall be made directly to the State Building Code Technical Review Board as provided in Article 2 (§ [36-108](#) et seq.) of Chapter 6 of Title 36. Fees may be levied by the local governing body in order to defray the cost of such enforcement and appeals; however, for the City of Chesapeake no fee charged for the inspection of any place of religious worship designated as Assembly Group A-3 under the Fire Prevention Code shall exceed \$50. For purposes of this section, "defray the cost" may include the fair and reasonable costs incurred for such enforcement during normal business hours, but shall not include overtime costs, unless conducted outside of the normal working hours established by the locality. A schedule of such costs shall be adopted by the local governing body in a local ordinance. A locality shall not charge an overtime rate for inspections conducted during the normal business hours established by the locality. Nothing herein shall be construed to prohibit a private entity from conducting such inspections, provided the private entity has been approved to perform such inspections in accordance with the written policy of the fire official for the locality. Any local fire code may provide for an appeal to a local board of appeals. If no local board of appeals exists, the State Building Code Technical Review Board shall hear appeals of any local fire code violation.

(1986, c. 429; 1994, c. [275](#); 2000, cc. [941](#), [1001](#); 2001, c. [570](#); 2004, c. [787](#); 2008, c. [499](#); 2010, c. [102](#); 2012, cc. [607](#), [635](#).)

§ 27-100. Violation a misdemeanor.

It shall be unlawful for any owner or any other person, firm, or corporation, on or after the effective date of any Code provisions, to violate any provisions of the Fire Prevention Code. Any such violation shall be deemed a Class 1 misdemeanor, and any owner, or any other person, firm, or corporation convicted of such violation shall be punished in accordance with the provisions of § 18.2-11.

(1986, c. 429.)

[prev](#) | [next](#) | [new search](#) | [table of contents](#) | [home](#)

§ 27-100.1. Seizure and destruction of certain fireworks.

Any law-enforcement officer arresting any person for a violation of this chapter related to fireworks shall seize any article of fireworks in the possession or under the control of the person so arrested and shall hold the same until final disposition of any criminal proceedings against such person. If a judgment of conviction be entered against such person, the court shall order destruction of such articles upon expiration of the time allowed for appeal of such judgment of conviction.

(2002, c. [856](#).)

[prev](#) | [next](#) | [new search](#) | [table of contents](#) | [home](#)

Item No. 6

Town of Front Royal, Virginia Work Session Agenda Form

Date: March 3, 2014

Agenda Item: COUNCIL CONSIDERATION/APPROVAL/DISAPPROVAL: Contract to purchase 5.24 acre site of former Avtex property for future Police Department headquarters.

Summary: The Economic Development Authority ("EDA") has agreed to sell 5.24 acres of the former Avtex property on the north side of Kendrick Lane to the Town for the future headquarters of the Police Department. It is my understanding that all the holders ("stakeholders") of the Conservation and Environmental Protection Easement and Declaration of Restrictive Covenants dated November 23, 1999, they being the Valley Conservation Council, the EDA, U.S. Dept. of Justice, the Lord Fairfax Soil and Water Conservation District, FMC Corporation, and Honeywell, have all signed a Concurrence to this sale, clearing the way for the Town to purchase this site.

The Contract to Purchase calls for a purchase price of \$36,680.00 (\$7,000.00 per acre), with an earnest money deposit of \$1,000.00 to be credited toward the purchase price; a deed of special warranty (meaning the EDA warrants that it has good title to the property—I suggest that the Town obtain title insurance in addition); that the Police headquarters will allow "emergency, non-recurring sleeping quarters due to snow or other emergency events, for Police Department staff only"; and that closing on the property and payment of the purchase price will occur within 60 days following the date of the Contract.

Council Discussion: Town Council should decide if the terms of this Contract are acceptable, so that if it is, the Contract can be signed and forwarded to the EDA for its execution, and then title work and closing can be performed.

Staff Evaluation: This is the site recommended for the Police Headquarters by the Town's consultant; and the purchase price seems quite reasonable. The Contract of Sale appears to be in good legal form, and satisfactory to protect the interests of the Town.

Budget/Funding: The purchase price is \$36,680.00, of which \$1,000.00 is due up front when the Contract is signed by the Town, and the balance due at closing. There will be costs for title insurance, survey costs, recordation costs, costs for the preparation of the deed, and costs for any environmental investigation of the property the Town might wish to perform prior to closing (I don't claim to be an expert, but it is my understanding the property on the north side of Kendrick Lane was never substantially contaminated, so this might not be a concern).

Legal Evaluation: See above.

Staff Recommendations: Staff does not see any objections to this proposal

Town Manager Recommendation: The Town Manager concurs with staff's recommendations.

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action

Consensus Poll on Action: ___(Aye) ___(Nay)

Work Session

CONTRACT TO PURCHASE AND SELL REAL ESTATE

THIS CONTRACT TO PURCHASE AND SELL REAL ESTATE made and entered into this ____ day of _____, 2013 (the "Effective Date"), by and between **THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE TOWN OF FRONT ROYAL AND THE COUNTY OF WARREN, VIRGINIA**, doing business as the Warren County Economic Development Authority (EDA), a political subdivision of the Commonwealth of Virginia (**SELLER**), and **THE TOWN OF FRONT ROYAL, VIRGINIA**, a Virginia municipal corporation (**BUYER**).

WITNESSETH:

WHEREAS, Seller is the owner of a certain parcel of land known and designated as Tax Map Parcel 20A1-3-7B, a 5.24-acre parking lot on the east side of Kendrick Lane between Monroe Avenue and Adams Avenue within the Town of Front Royal, Virginia (**the Property**); and

WHEREAS, Seller acquired the Property by deed from Anthony H. Murray, Jr., Inc., Trustee, in the Bankruptcy Estate of Avtex Fibers Front Royal, Inc., and The Estate of Avtex Fibers, Inc., dated March 27, 2000, and recorded at the Clerk's Office of the Circuit Court of Warren County, Virginia, as Instrument Number 000001681; and

WHEREAS, the Property is subject to a Conservation and Environmental Protection Easement and Declaration of Restrictive Covenants, dated November 22, 1999, and recorded as Instrument number 990008268 in the Clerk's Office aforesaid (the Covenants) which restricts the use of the Property to certain light industrial uses, including, but not limited to, a police station; and

WHEREAS, the Property is also subject to a Real Estate Sale Contract dated November 22, 1999, among several parties which provides, in part, that the Property may be re-sold by the EDA to a third party at a price of Seven Thousand Dollars (\$7,000.00) per acre; and

WHEREAS, the Seller desires to sell and the Buyer desires to buy the Property for use as a future police station and associated parking, under the mutually agreeable terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and the payment of a deposit in the sum of One Thousand Dollars (\$1,000.00) which shall apply towards the Purchase Price at closing, the receipt and sufficiency of which are hereby acknowledged, the Seller agrees to sell and the Buyer agrees to buy the Property described above in accordance with the following terms and conditions.

1. Purchase Price/Deposit

A. The Seller shall sell the Property to the Buyer for the sum of **Thirty-six Thousand Six Hundred Eighty and 00/100 Dollars (\$36,680.00)**, payable at Closing (the Purchase Price). All deposits will be credited to the Purchase Price.

B. On payment of the Purchase Price at Closing on the Property, Seller agrees to convey the Property to Buyer by good and sufficient special warranty deed.

C. On the Effective Date of this Agreement, Buyer shall make a refundable deposit to Seller of **One Thousand and 00/100 Dollars (\$1,000.00)** (the "Deposit") which the parties agree shall be held in escrow by Seller. The Deposit shall be applied towards the Purchase Price, unless this Agreement is declared as null and void or otherwise terminated as provided for in this Agreement. In the event the Agreement is declared null and void or terminated according to the terms of the Agreement for any reason, the Deposit shall be returned to the Buyer.

2. Title

A. As a condition to Closing, title to the Property at Closing shall be good of record and in fact, fully merchantable, insurable and conveyed to Buyer by special warranty deed subject only to the Permitted Exceptions (as hereinafter defined). The term "Permitted Exceptions" shall mean (i) the lien of real estate taxes not yet due and payable; (ii) all matters revealed in the Title Commitment obtained by Buyer prior to Closing or of record as of such date (excluding mortgage, deeds of trust or other monetary liens encumbering the Property) and approved or deemed approved by Buyer; (iii) all matters not disclosed because an accurate survey or inspection of the Property was not performed but which matters would be shown by an accurate survey or an inspection of the Property, including, but not limited to, easements, encroachments, overlaps, riparian rights, and boundary disputes, if any; (iv) all building, zoning, and other state, county or federal laws, codes and regulations (whether existing or proposed) affecting the Property; (v) any existing general utility easements serving the Property; (vi) any matters agreed to in writing between Seller and Buyer; and (vii) any title exception created directly or indirectly by any act or omission of Seller or its representatives, agents, employees or invitees.

B. Prior to Closing, Buyer shall obtain a title certificate letter from the Buyer's attorney pursuant to Virginia law, or a binding commitment from a title insurance company to issue an ALTA title policy covering the Property (the "Title Commitment"), together with true copies of all documents evidencing matters of record shown as exceptions to title thereon. Buyer shall have the right to object, in its sole and absolute discretion, to any exceptions contained in the Title Commitment by giving written notice thereof to Seller stating the matters to which Buyer objects and the reasons therefor. If Buyer fails timely to provide such written objection, then Buyer shall conclusively be deemed to have approved all matters affecting title to the Property shown on the Title Commitment as of the effective date of such Title Commitment. If Buyer disapproves of any matter affecting title, Seller shall endeavor to cure or remove such exceptions in a timely and reasonable manner and the date of Closing shall be extended until such exceptions are cured. Buyer shall have the right to waive any one or more of such title defects that Seller has not elected to cure or remove. In all events any monetary liens, judgments, or delinquencies shall be paid out of Seller's proceeds of sale at Closing. Notwithstanding anything to the contrary stated herein above in this

paragraph, mortgages/deeds of trust against the Property shall not be deemed to be a title objection provided they are paid in full by Seller out of the Purchase Price.

3. Closing

Provided Buyer does not first terminate this Contract in accordance with the provisions of this Contract, Seller and Buyer agree to proceed to full and final Closing on the Property, on a date selected by Buyer and approved by Seller in its reasonable discretion which date shall occur on the date which is not later than sixty (60) days following the Effective Date, or the satisfaction of all conditions listed below. Closing shall take place at the offices of the Buyer's designated Title Company, or such other place as the Buyer may designate.

4. Seller's Representations, Warranties and Covenants

In order to induce Buyer to enter into this Contract and to consummate the transactions contemplated hereby, Seller represents and warrants to, and covenants with Buyer as follows. For purposes of this Agreement, the term "knowledge" when applied to the Seller shall refer to actual knowledge.

- A. Seller is the owner of the Property and has the right to sell the Property.
- B. The execution, delivery and performance of this Contract and the consummation of the transactions contemplated hereby have been duly and validly authorized by all requisite actions of Seller (none of which actions have been modified or rescinded, and all of which actions are in full force and effect).
- C. To the best of Seller's knowledge, and except as otherwise disclosed to Buyer, Seller has not received any notice that it is in violation or default under any Contract with any third party, or under any judgment, order, decree, rule or regulation of any court, arbitrator, administrative agency or other governmental authority to which it may be subject, which violation or default will, in any one case or in the aggregate, adversely affect the ownership or operation of the Property or Seller's ability to consummate the transactions contemplated hereby. The execution, delivery and performance of this Contract and the consummation of the transactions contemplated hereby will not to the best of Seller's knowledge (a) violate any law or any order of any court or governmental authority with proper jurisdiction; (b) result in a breach or default under any service contract, equipment lease or other binding commitment of Seller or any provision of the organizational documents of Seller; or (c) result in any encumbrance, other than a Permitted Exception, against the Property.
- D. To the best of Seller's knowledge no tenants are in possession of the Property by virtue of leases now in effect.
- E. To the best of Seller's knowledge Seller has not received notice of any pending, nor is it aware of any threatened, condemnation or similar proceeding affecting any part of the Property.

F. There are no actions, suits, proceedings or claims affecting any part of the Property or affecting Seller with respect to the ownership, occupancy, use or operation of any part of the Property or to the best of Seller's knowledge, pending or threatened in or before any court, agency, commission, or board.

G. To the best of Seller's knowledge, Seller has received no written notice that the Property is in violation of applicable environmental, health, fire, safety or planning or zoning laws or ordinances.

H. No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is, or to the best of Seller's knowledge, pending or threatened against or contemplated by Seller.

I. To the best of Seller's knowledge the Property (including land, surface and subsurface soil, surface water, ground water, and improvements) does not contain any substantial amounts of waste or debris or contain any material contamination which would constitute a violation of any law or regulation including: (a) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder; (b) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder; (c) any substance the presence of which on the Property is prohibited by any law similar to those set forth in this subparagraph including similar laws of the Commonwealth of Virginia; and (d) any toxic or hazardous substances or materials, whether products or wastes, including, without limitation, asbestos or PCB's. (All of the foregoing are collectively referred to herein as "Hazardous Materials").

J. Subsequent to the Effective Date, Seller shall not file any plans, plats or any other documents or materials with any governmental authority in connection with any of Seller's obligations under this Contract or in any other respect with regard to the Property unless Seller has first obtained Buyer's prior written approval of such plans, plats and/or other documents and materials in each instance.

K. Seller shall promptly advise Buyer in writing of any facts of which Seller becomes aware indicating the inaccuracy of any of the representations or warranties of Seller contained in this Contract and shall promptly give to Buyer copies of any written notices which Seller receives relating to the Property. Seller's notice to Buyer as to inaccuracies in representations and warranties discovered by Seller subsequent to the date of this Contract shall not constitute a breach of this Contract by Seller.

L. The Property is subject to restrictions and conditions of use and sale, by instruments of record in the Clerk's Office of the Circuit Court of Warren County, Virginia, relating to its former use as a parking lot for the former Avtex Fibers plant, now a Superfund recovery site. Sale of the Property is subject to and conditioned on approval of listed Stakeholders to the proposed sale and use of the Property. Confirmation that the proposed sale and use has been requested from the

Stakeholders by the Seller.

5. Buyer's Representations, Warranties and Covenants

In order to induce Seller to enter into this Contract and to consummate the transactions contemplated hereby, Buyer represents and warrants to, and covenants with, Seller as follows:

A. Buyer is a Virginia municipal corporation and is authorized to conduct the business in which it is now engaged.

B. The execution, delivery and performance of this Contract and the consummation of the transactions contemplated hereby have been duly and validly authorized by all requisite actions of Buyer (none of which actions have been modified or rescinded, and all of which actions are in full force and effect). This Contract constitutes a valid and binding obligation of Buyer, enforceable against Buyer in accordance with terms.

C. The execution, delivery and performance of this Contract and the consummation of the transactions contemplated hereby by Buyer will not (i) violate any law or any order of any court or governmental authority with proper jurisdiction; (ii) result in a breach or default under any contract or other binding commitment of Buyer or any provision of the organizational documents of Buyer; or (iii) require any consent or approval or vote that has not been taken or given, or at the time of the transaction involved, shall not have been taken or given.

D. There are no actions, suits, arbitrations, proceedings, governmental investigations or other proceedings that are pending against Buyer that adversely and materially affect its right to enter into or perform this Contract.

E. The Buyer represents and the Seller acknowledges that the Buyer's purpose in purchasing the Property is for use as a law enforcement facility consisting of a municipal police department station and dispatch center and necessary and appropriate associated functions, including patrol, criminal investigations, communications, records, victim information, community relations including community meeting area, emergency services, crisis negotiations, and parking for law enforcement and emergency relation functions and for the public.

6. Closing Costs

A. Seller shall pay for the release of any deeds of trust or other monetary liens encumbering the Property, and for the Virginia grantor's tax on the deed of conveyance. In addition, Seller shall be obligated to pay for all legal fees for attorneys representing Seller who have been retained by Seller.

B. Buyer shall be obligated to pay for the cost of preparation of the deed of conveyance and for all state and local recording or transfer taxes on the deed of conveyance (except for the Virginia grantor's tax). Buyer shall also be obligated to pay all title insurance premiums, costs for survey ordered by Buyer, all costs of its due diligence inspections and any escrow fees as well as all

legal fees for attorneys representing Buyer, who have been retained by Buyer.

C. No realtor's fees or commissions will be paid by either party, as no realtor has been used in conjunction with this transaction.

7. Payment of Liens on the Property

A. Unless released prior to Closing, any deeds of trust, judgments, delinquent taxes or other monetary liens or charges against the Property shall be paid out of Seller's proceeds at Closing.

B. All property taxes and other liens shall be prorated as of the date of Closing.

8. Insurance, Damage, Condemnation or Destruction of Property Pending Closing

Risk of loss shall be with Seller until Closing.

9. Possession

Seller shall deliver sole and exclusive possession of the Property to Buyer upon Closing, free of tenancies.

10. Deliveries at Closing

A. Seller's Deliveries. At Closing, Seller shall provide the following original documents, each executed and acknowledged (as appropriate):

(1) A special warranty deed to the Property in recordable form, conveying the Property to Buyer subject only to the Permitted Exceptions and other matters subsequently approved by Buyer or Buyer's counsel as provided in Paragraph 2 "Title" and elsewhere herein;

(2) An affidavit certifying that Seller is not a "foreign person" within the meaning of Section 1445(f) (3) of the Internal Revenue Code;

(3) A certificate of Seller updating the representations and warranties of Seller set forth in this Contract through Closing, which certificate shall state that there has been no material change in said representations and warranties;

(4) Copies of documents from Stakeholders confirming that the sale and proposed use of the Property does not violate the terms of the covenants and restrictions on record, **including confirmation that in the event of relatively rare, weather-related or other emergency events beyond the control of Buyer it is reasonably necessary and appropriate for employees and agents of law enforcement agencies to stay and sleep overnight on the Property.**

(5) Such other documents as are required to be delivered by Seller pursuant to this Contract.

B. Buyer's Deliveries. At Closing Buyer shall deliver the following items or original documents, each executed and acknowledged (as appropriate), as the case may be:

- (1) The then outstanding balance of the yet to be paid Purchase Price;
- (2) Closing Statement;
- (3) A certificate of Buyer updating the representations and warranties of Buyer set forth in this Contract through Closing, which certificate shall state (i) there has been no material change in Buyer's representations and warranties and (ii) as of Closing, all conditions precedent benefitting Buyer in this Contract have either been satisfied or waived; and
- (4) Such other documents as are required by this Contract.

11. Brokerage

The parties hereto warrant and represent to each other that the neither party is represented by any realtor, broker or agent, and that no commissions or finder's fees are or will be due and payable with respect to this Contract or the consummation of the transaction contemplated herein.

12. Conditions Precedent of Buyer

The obligation of Buyer to proceed to Closing on the Property shall be subject to the following conditions and contingencies (all or any of which may be waived, in whole or in part, by the Buyer):

- A. Affirmative vote of Board of Directors of the EDA to ratify this Contract.
- B. Affirmative votes by the Front Royal Town Council to ratify or approve this Contract.
- C. Buyer obtaining satisfactory financing for the purchase, within 30 days of the Effective Date.
- D. Representations and warranties of Seller as contained in Paragraph 5 and elsewhere in this Contract remain substantially true and accurate in all material respects as of Closing.
- E. Title to the Property be as described in Paragraph 2 of this Contract.
- F. Seller shall have performed all covenants herein contained.
- G. Seller and/or Buyer obtain subdivision approval from Town of Front Royal to separate parcel from parent parcel (if needed).
- H. Seller obtain consent/approval for sale from Avtex Stakeholders.

13. Termination, Default and Remedies

The parties hereby acknowledge that (1) the transactions contemplated by this Agreement are unique in character and (2) in the event that either party fails to Close or otherwise breaches any of their material obligations under this Agreement, monetary damages alone will not be adequate. The non-defaulting party shall therefore as its sole remedy (with the exception of any attorney's fees) resulting from a defaulting party's failure to close or breach of any terms of this Agreement, to obtain specific performance of the terms of this Agreement.

14. Notices

Any notice required or permitted to be given under this Contract shall be deemed to be given when (i) hand-delivered by personal delivery or (ii) one (1) business day after pickup by United Parcel Service or Federal Express or (iii) when received by confirmed facsimile transmission or registered or certified mail (return receipt requested, first-class postage prepaid), in either case addressed to the parties as follows:

If to Seller to: Jennifer R. McDonald, Executive Director
Economic Development Authority
400-D Kendrick Lane
P.O. Box 445
Front Royal, Virginia 22630
(540) 635-2182

If to Buyer to: Steven M. Burke, Town Manager
102 E. Main Street
Front Royal, Virginia 22630
(540) 635-8007

And Copy to: Blair D. Mitchell, County Attorney
220 N. Commerce Avenue, Suite 100
Front Royal, Virginia 22630
(540) 636-6674

or in each case to such other address as either party may from time to time designate.

15. Disclaimer of Warranties

Except for the special warranty of title and the warranties specifically set forth in this Contract, Seller specifically disclaims any warranty, guaranty or representation, oral or written, past or present, express or implied, relating to the Property. It is understood that the Property is being conveyed to Buyer at Closing in "As Is" "Where Is" condition without any warranties or representations of any kind or nature whatsoever.

16. Miscellaneous Provisions

A. Binding Effect. This Contract shall, be binding upon and inure to the benefit of the parties hereto, and their respective heirs, devisees, personal representatives, successors and permitted

assigns.

B. Waiver, Modification. Except for issues concerning title, all of which Buyer must have addressed prior to the commencement of the Purchase of the Property, failure by the parties to insist upon or enforce any of their rights hereto shall not constitute a waiver thereof.

C. Assignment. This Contract may not be assigned by Buyer without the prior written consent of Seller.

D. Governing Law. This Contract shall be governed by and construed under the laws of the Commonwealth of Virginia, without regard to principles of conflicts of law.

E. Headings. The paragraph headings are herein used for convenience of reference only and shall not be deemed to vary the content of this Contract or the covenants, agreements, representations and warranties herein set forth or the scope of any paragraph.

F. Counterparts. If this Contract shall be executed in two or more counterpart originals, each counterpart original shall be for all purposes considered an original of this Contract.

G. Partial Invalidity. If any provision of this Contract shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, all of which other provisions shall remain in full force and effect; and it is the intention of all the parties hereto that if any provision of this Contract is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

H. Merger of Warranties. Unless otherwise provided herein, the representations and warranties made by Seller herein and all other provisions of this Contract shall be deemed merged into the deed delivered at Settlement and shall not survive Settlement.

I. Entire Contract. This Contract, together with a certain Supplemental Agreement by and between Buyer and Seller of even date herewith, constitutes the entire Contract between the parties with respect to the purchase and sale of the Property and supersedes all prior oral and written understandings. Amendments to this Contract shall not be effective unless in writing and signed by the parties hereto.

J. Holidays, etc. Whenever the last day for the performance of any act required by either Seller or Purchaser under this Contract shall fall upon a Saturday, Sunday, or legal holiday, the date for the performance of any such act shall be extended to the next succeeding business day which is not a Saturday, Sunday or legal holiday.

K. Counsel Fees. If any action is brought by either party against the other party, the prevailing party shall be entitled to recover from the other party reasonable attorney's fees, costs and expense incurred in connection with the prosecution or defense of such action.

L. Effective Date. The Effective Date of this Contract shall be the date that a fully signed

original of this Contract is executed by Buyer and delivered to and signed by Seller.

17. Notice to Buyer

NOTICE: THE INTEREST TO BE CONVEYED HEREBY IS SUBJECT TO A CONSERVATION AND ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS DATED NOVEMBER 22, 1999, (SIGNED IN COUNTERPARTS BETWEEN NOVEMBER 9 AND 22, 1999) RECORDED IN THE LAND RECORDS OF THE CLERK OF THE CIRCUIT COURT OF WARREN COUNTY, VIRGINIA, ON DECEMBER 7, 1999, AS INSTRUMENT NUMBER 990008268, IN FAVOR OF AND ENFORCEABLE BY, THE UNITED STATES OF AMERICA, FMC CORPORATION, GENERAL CHEMICAL CORPORATION, THE LORD FAIRFAX SOIL AND WATER CONSERVATION DISTRICT AND THE VALLEY CONSERVATION COUNCIL.

IN WITNESS WHEREOF, Seller and Buyer have caused this Contract to be executed as of the date indicated below, signatures beginning on next page.

SELLER:

THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE TOWN OF FRONT ROYAL AND THE COUNTY OF WARREN, VIRGINIA, doing business as the Warren County Economic Development Authority (EDA), a political subdivision of the Commonwealth of Virginia

By: _____ Date: _____
Patricia S. Wines, Chairman

BUYER:

THE TOWN OF FRONT ROYAL, VIRGINIA, a Virginia municipal corporation

By: _____ Date: _____
Steven M. Burke, Town Manager

Approved as to form:

Approved as to form:

Blair D. Mitchell
Counsel for Seller

Douglas W. Napier, Town Attorney
Counsel for Buyer

**CONCURRENCE THAT SALE OF 5.24-ACRE PORTION OF PARCEL 2A IS NOT IN CONFLICT
WITH TERMS OF CONSERVATION AND ENVIRONMENTAL PROTECTION
EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS**

We, the undersigned holders of a Conservation and Environmental Protection Easement and Declaration of Restrictive Covenants dated November 23, 1999 (the Easement) at a closed industrial site in Front Royal, Virginia, known as the Avtex Fibers Superfund Site (the Site), have been asked to determine that a proposed sale and transfer in title to the Town of Front Royal, Virginia, of a 5.24-acre portion of Parcel 2A (northwest portion of parking lot fronting on Kendrick Lane) upon which the Town desires to construct, maintain, house and operate its Police Station, together with parking facilities, is in conformity with the terms and conditions of the Easement.

Recitals:

The Town of Front Royal, Virginia (the Town) now operates a municipal police department, whose current building the Town Council has determined needs to be replaced.

The Industrial Development Authority of the Town of Front Royal and County of Warren, Virginia, d/b/a Economic Development Authority (the EDA) is the owner of Parcel 2A as shown on Exhibit D to the Easement, which consists of two portions of former parking lots, the northeastern one consisting of approximately five and twenty-four one hundredths acres (5.24 acres) (the Property).

The Town has offered to purchase the Property for a consideration of \$7,000.00 per acre, which is the fair market value of the Property as provided for in the Real Estate Sale Contract dated November 23, 1999, by and between Avtex Fibers-Front Royal, Inc., Anthony H. Murray, Jr., Inc., Trustee, the Industrial Development Authority of the Town of Front Royal and County of Warren, Virginia, d/b/a Economic Development Authority, the County of Warren, Virginia, the Town of Front Royal, Virginia, the United States of America on behalf of the Environmental Protection Agency, and FMC Corporation

The Town desires to purchase the Property, and to construct, operate, house and maintain on the Property its municipal police station, including offices, communications and dispatch facilities, locker rooms, squad meeting rooms, evidence lockers, parking spaces and other facilities customarily associated with municipal police stations.

The station would include emergency, non-recurring overnight sleeping quarters due to snow or other emergency events, for Police Department staff only.

The EDA now requests the Stakeholders to agree and consent to the sale of the 5.24-acre parcel from the EDA to the Town, provided that the deed of bargain and sale contains a restriction that the 5.24-acre parcel be used as a public safety facility usage in conformity with the terms of the Easement.

Finding of Conformity and Consent to Usage

We, the holders of the Easement, agree that the proposed sale of the 5.24-acre parcel appears not to be in conflict with the terms of the Easement, and we consent to the sale by the EDA to the Town of the 5.24-acre parcel to be used as the site of a municipal public safety facility (police station) provided that the deed of bargain and sale contains a restriction that the property be used for public safety facility purposes consistent with the terms of the Easement, that the deed contains the Notice as described in paragraph 8 of the Easement, and that any sleeping quarters provided and used be only for the rare, emergency, non-recurring snow or other emergency-related events, for Police Department staff only.

Witness the following signatures and dates, which may be signed in counterparts, to signify our findings of conformity and consent to the proposed project.

VALLEY CONSERVATION COUNCIL

By _____
Name _____
Title _____
Date _____

LORD FAIRFAX SOIL AND WATER
CONSERVATION DISTRICT

By _____
Name _____
Title _____
Date _____

INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE TOWN OF FRONT ROYAL AND
COUNTY OF WARREN, VIRGINIA

By _____
Name _____
Title _____
Date _____

FMC CORPORATION

By _____
Name _____
Title _____
Date _____

THE UNITED STATES OF AMERICA

By _____
Name James A. Lofton
Title Counsel to the Chief
U.S. Department of Justice
Environmental and Natural Resources Division
Environmental Enforcement Section
Date _____

HONEYWELL

By [Signature]
Name Erica M. Hawk
Title V.P. HSES
Date 2/20/2019



Town of Front Royal, Virginia Work Session Agenda Form

Date: March 3, 2014

Agenda Item: COUNCIL CONSIDERATION/APPROVAL/DISAPPROVAL: Adoption of two party (Town and County only parties, Front Royal Limited Partnership [FRLP] not a party) Voluntary Settlement Agreement (VSA).

Summary: On August 12, 2013, Town Council approved the draft 3-party Voluntary Settlement Agreement (VSA) with the Board of Supervisors and the Front Royal Limited Partnership (FRLP), for the annexation of 604.76 acres of undeveloped land into the Town. On January 6, 2014, the Commission on Local Government (COLG) issued its report and recommendations regarding the proposed annexation, and noted that, in the opinion of COLG, under the terms of Va. Code § 15.2-3400 which governs voluntary settlement agreements, the VSA must be between the County and the Town, and cannot include FRLP as a party. The Town Attorney and County Attorney drafted a revision to the VSA last November, making it a 2-party agreement, and including all the same terms as the 3-party agreement. The COLG noted at its January 6, 2014 meeting, that it had reviewed the revised VSA and its recommendation of approval of the annexation is based on that revised 2-party agreement.

However, both the Town Attorney, the County Attorney, and the attorney for FRLP continue to have significant reservations if FRLP can legally be excluded as a party to this VSA, as the underlying Annexation Petition which gives rise to the VSA was filed by FRLP and therefore, the parties feel that FRLP may be a necessary party to the VSA and the subsequent annexation suit. Further, the Town's Planning and Zoning Director has pointed out the difficulties in the Town attempting to collect monetary and other proffers on behalf of the County under the VSA if FRLP is not a party to the VSA, and if the VSA is not binding on FRLP and its successors in interest.

The change from the 3-party agreement approved by Town Council last August to a 2-party agreement is simply that the VSA is to be between the Town and the County (FRLP is not to be a party). The edited 2-party VSA is attached. The VSA rewords the proffer provisions simply to say that the Town will not approve any rezoning for any part of the FRLP property unless FRLP makes the same proffers on cash contributions to the County, the cap on total number of market rate housing units, and the minimum size of the units that were included in the original 3-party VSA.

To move forward with the proposed annexation, the Town and County and the Town should approve the VSA, by Ordinance, after a public hearing. The Town has proposed that each governing body approve both the 3-party agreement and the revised 2-party agreement (the County has already approved both VSAs). In that manner, both VSAs can be submitted to the Special Annexation Court, in the alternatives, and the Court can approve whichever version it feels appropriate. The terms of both versions of the VSA include the following:

- 604.76-acre site, north of Happy Creek Road, will be boundary adjusted into the Town limits, initially zoned agricultural under the Town Zoning Ordinance.
- FRLP may in the future apply for rezoning to allow for residential and/or other uses.
- Town will not approve any rezoning resulting in more than 818 "market rate" houses, defined as houses capable of housing persons of age 55 and younger.
- Detached market rate houses will be a minimum of 1,600 square feet in size. No minimum size for attached units (duplexes) or multi-family units.
- FRLP proposes to offer approximately 56 acres of land to County for school, park, open space or other governmental use. County not obligated to accept any or all of it.
- Town will not approve any rezoning with cash proffers to County of less than:
 - \$8,750 per unit at time of occupancy permit for first 409 units built.

- \$16,250 per unit at time of occupancy permits for units 410 – 818.
- Amount of cash payment will be adjusted pursuant to Consumer Price Index beginning 2 years after Court approves agreement, up to a maximum adjustment of 2% per year.
- Value of land dedications to County (as determined by average of 3 appraisers) will reduce amount of cash payments on a dollar-for-dollar basis.
- Town will allow FRLP to extend public water and sewer facilities into the site at FRLP's expense.
- County and FRLP will endorse expansion of the Town's electric service into the site.
- Town and County will amend their Comprehensive Plans to show the proposed future development of the site to include the market rate housing, age-restricted housing, and commercial uses.
- County and Town will dedicate needed right-of-way for connection of East-West Connector Road to Commerce Avenue. If any current public facilities require relocation, FRLP shall pay for such relocation.
- Town will use its best efforts to consider approval of any requested rezoning of site (or parts of site) within 12 months of application.
- All parties agree to submit agreement to COLG and Special Annexation Court for approval.
- Town will support FRLP applications for public funding to assist in construction of East-West Connector Road.
- Agreement terms shall be binding for the later of 25 years or complete build-out of project.

The proposed Ordinance to approve both versions of the VSA as alternatives is attached. If Town Council approves the VSAs, the next step in the annexation process will be for the Town and County to jointly petition the Circuit Court for approval of the appropriate VSA and the annexation. The Circuit Court Clerk must then notify the Supreme Court of Virginia of the filing of the petition, and request the Supreme Court to designate a special 3-judge panel to hear the petition.

Council Discussion: Council is requested to consider approving the 2-party (Town and County as parties) VSA in the alternative to the 3-party VSA (Town, County, FRLP) to conform to COLG's recommendation, so as to cover all the legal bases when this matter comes before the Special Annexation Court.

Staff Evaluation: See above.

Budget/Funding: No additional funding required.

Legal Evaluation: See above.

Staff Recommendations: See above.

Town Manager Recommendation: The Town Manager concurs with the recommendation of the Town Attorney and the Town Planning and Zoning Director.

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
 Consensus Poll on Action: ____ (Aye) ____ (Nay)

TOWN COUNCIL OF THE TOWN OF FRONT ROYAL, VIRGINIA

**AN ORDINANCE TO APPROVE THE VOLUNTARY SETTLEMENT
AGREEMENT FOR THE ANNEXATION INTO THE TOWN OF FRONT
ROYAL OF APPROXIMATELY 604.76 ACRES OF LAND BELONGING
TO FRONT ROYAL LIMITED PARTNERSHIP, AS REVIEWED BY THE
COMMISSION ON LOCAL GOVERNMENT**

WHEREAS, Front Royal Limited Partnership (FRLP) has filed an application with the Commission on Local Government for the annexation from the County of Warren into the Town of Front Royal of approximately 604.76 acres of land belonging to FRLP bounded by the Front Royal-Warren County Economic Development Authority's Happy Creek technology Park to the east, the Shenandoah River and a quarry to the west, Allegheny Power transmission lines and Interstate 66 to the north, and a Norfolk Southern railroad line separating the FRLP properties from Happy Creek Road to the south; and

WHEREAS, the Front Royal Town Council (the Town), the Board of Supervisors (the County) and FRLP have negotiated and agreed upon the terms and conditions for a boundary change to settle the requested annexation by a Voluntary Settlement Agreement (the Agreement) as an alternative to a fully contested litigation and have submitted two versions of the Agreement (one between all three parties, being the Town, the County, and FRLP; and a second between the Town and the County) to the Commission on Local Government (the Commission) for review and recommendation; and

WHEREAS, the Commission has reviewed the two versions of the Agreement, and has recommended approval of the second version (between the Town and the County) based upon the Commission's belief that voluntary settlement agreements cannot include non-governmental entities as parties; and

WHEREAS, the County and the Town desire to adopt and present to the Circuit Court for approval both versions of the Agreement in the alternative as options to be approved;

NOW THEREFORE, BE IT HEREBY ORDAINED AND ENACTED by the Town Council of the Town of Front Royal, Virginia, that the Town Council consents to the

[Type text]

adjustment of the FRLP property into the Town's corporate limits; that this Ordinance is the implementation of the Town Council's approval and adoption of the Commission's review and recommendation aforesaid; that the said Town Council endorses, approves and adopts the terms of both versions of the Voluntary Settlement Agreement as negotiated and drafted by the Town Attorney, the County Attorney, and FRLP; that the said Town Council authorizes the Mayor of the Town of Front Royal to execute both versions of the Voluntary Settlement Agreement on its behalf; and the said Town Council directs that, in the filing of a petition and law suit in the Circuit Court to accomplish the annexation, the Town Attorney, in conjunction with the County Attorney for Warren County and any other appropriate party, forward both versions of the Agreement, in the alternative, to the Circuit Court with a request that the Circuit Court endorse the three-party version if the Court deems it to be appropriate and lawful, or, in the alternative, that the Court endorse the two-party version if the Court finds that FRLP cannot be a party to the Agreement.

This ordinance shall be effective upon enactment.

THIS ORDINANCE was advertised in the Northern Virginia Daily on

_____ and _____, 2014, was adopted by the Town Council during the first reading held during the regular Council Meeting of _____, 2014, and was enacted during its second and final reading during the regular Council Meeting of _____, 2014, upon the following recorded vote:

Motion to Approve by: _____

Seconded by: _____

Votes:

Daryl L. Funk _____
Bret W. Hrbek _____
Thomas H. Sayre _____

N. Shae Parker _____
Hollis L. Tharpe _____
Eugene R. Tewalt _____

APPROVED:

[Type text]

Timothy W. Darr, Mayor

ATTEST:

**Jennifer E. Berry,
Clerk of Council**

APPROVED AS TO FORM AND LEGALITY:

**Douglas W. Napier,
Town Attorney**

Date

**VOLUNTARY SETTLEMENT AGREEMENT BETWEEN THE TOWN
OF FRONT ROYAL, VIRGINIA, AND WARREN COUNTY, VIRGINIA,**

THIS VOLUNTARY SETTLEMENT AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2014, and executed in triplicate originals (each executed copy constituting an original), by and between the TOWN OF FRONT ROYAL, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (hereinafter the "Town"), and the COUNTY OF WARREN, VIRGINIA, a political subdivision of the Commonwealth of Virginia (hereinafter the "County"), Together the Town and County are collectively identified as the "Parties."

RECITALS

R-1. WHEREAS, the Parties have reached this Agreement pursuant to Title 15.2, Chapter 34, of the Code of Virginia, (i) providing for the annexation of certain territory of the County into the Town, and (ii) providing for the development of the annexation areas in accordance with a jointly approved land use plan, and

R-2. WHEREAS, Front Royal Limited Partnership, a Virginia limited partnership ("FRLP") is the owner of a certain tract of land containing approximately 604 acres (hereinafter the "FRLP Property"), as the same is more thoroughly identified below, and

R-3. WHEREAS, the Town and the County, after due consideration, have determined and agree that the Town's boundaries should be adjusted and relocated as identified herein, and that certain other matters should be resolved between the Parties, and

R-4. WHEREAS, FRLP desires that the FRLP Property be annexed into the Town pursuant to these terms and conditions, and

R-5. WHEREAS, the Parties have determined that this Agreement is necessary to ensure the effective provision of public services to the area to be adjusted into the Town,

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained the receipt and sufficiency of which are conclusively agreed, the Parties agree as follows:

SECTION 1. DEFINITIONS

The Parties agree that the following words, terms, and abbreviations as used in this Agreement shall have the following defined meanings, unless the context clearly provides otherwise:

- 1.1. "Town" means the Town of Front Royal, Virginia.
- 1.2. "Town Council" means the Town Council of the Town of Front Royal, Virginia.
- 1.3. "County" means the County of Warren, Virginia.
- 1.4. "Board of Supervisors" means the Board of Supervisors of the County of Warren, Virginia.
- 1.5. "Code" means the Code of Virginia (1950), as amended. A reference to a specific Code provision shall mean that Code provision as it existed on the date of execution of this Agreement or any successor provision should the Code be amended after execution of this agreement.
- 1.6. "Commission" means the Virginia Commission on Local Government.

- 1.7. "Effective Date of the Annexation" shall be the first day of the second calendar month after entry of the Order by the Special Three-Judge Court appointed pursuant to Va. Code § 15.2-3400 to affirm, validate and give full force and effect to this Agreement.
- 1.8. "Future Land Use Plan" refers to the exhibit prepared by Bowman Consulting entitled "Future Land Use Plan of Annexation Area, Front Royal Limited Partnership Property," dated March 20, 2013, and attached as Exhibit A.
- 1.9. "Market Rate Dwellings" means all types of dwelling units not restricted to persons aged 55 years and older.
- 1.10. "Section" refers to the parts of this Agreement unless the context indicates that the reference is to sections of the Code.
- 1.11. "Special Court" means the Special Three-Judge Court appointed by the Supreme Court of Virginia pursuant to Title 15.2, Chapter 30, of the Code.
- 1.12. "Subsection" refers to the parts of this Agreement set out in the various "Sections."

SECTION 2. VOLUNTARY ANNEXATION OF PROPERTY BY THE TOWN

2.1. Annexation Agreement. The Town and the County agree to the annexation by the Town of certain territory consisting of the FRLP Property, more specifically described by metes and bounds on the attached Exhibit B. A survey showing the FRLP Property to be annexed shall be prepared (the "Survey"). The area so identified is referred to herein as the "Annexation Area," and is generally described as the area lying to the

northeast of the existing Town boundaries to the north of Happy Creek Road, to the west of State Route 606 (Shenandoah Shores Road), and to the south of Interstate 66. It comprises approximately 604 acres of land more or less.

2.2. Submission of the Survey. The Survey shall be submitted to and filed with the Commission and the Special Court appointed to affirm, validate, and give full force and effect to this Agreement.

2.3. Extension of Municipal Utility Services. Except as otherwise provided herein, the Town agrees that upon the Effective Date, the Town will permit the extension of its municipal utility services to the Annexation Area on the same basis and at the same level and rates as such services are now or hereafter provided to the areas within its current corporate limits where like conditions exist. The owner of property within the Annexation Area shall be responsible for the costs of extension of public utility services.

2.4. Electric Utility Service Endorsement. The County will favorably endorse, at such reasonable times and in such reasonable manner as the Town may request, expansion of the Town's electric utility service to the Property upon its becoming part of the Town.

SECTION 3. LAND USE AND ZONING ARRANGEMENTS IN THE ANNEXATION AREA

3.1. Future Land Use. Pursuant to the provisions of Va. Code Ann. § 15.2-3400(2), the Parties agree that the orderly development of the Annexation Area is in the best interest of the Parties and to that end the Parties agree that the Future Land Use Plan (Exhibit A), which depicts the proposed land use for the Annexation Area, represents a reasonable and appropriate conceptual Plan for the future development of that Area subject to further consideration during the rezoning process.

3.2. Comprehensive Plan Amendment. The Town and the County agree that promptly upon validation of this Agreement by order of the Special Court, each will use its best good faith efforts to amend its Comprehensive Plan to incorporate the Future Land Use Plan therein. Nothing herein shall prohibit the Town and County from repealing, modifying, or amending the Future Land Use Plan, with the mutual consent of both parties, and in accordance with law.

3.3. Transitional Zoning Classification of the Annexation Area. As of the Effective Date the Property within the Annexation Area shall be classified "Agriculture and Open Space Preservation District A-1" pursuant to the Town's Zoning Ordinance. This District shall apply to the Annexation Area pending the orderly amendment of the Town's Zoning Ordinance and Zoning Map as set forth herein.

3.4. Future Zoning Actions with Respect to the Annexation Area. Application to rezone all or a portion of the Annexation Area may be made at any time in accordance with law, provided that the Town will not approve a rezoning of all or a portion of the Property that would result in the construction of more than 818 Market Rate Dwelling units on the Property, for the duration of this Agreement. Single-family detached Market Rate Dwellings shall comprise not less than 1,600 square feet of habitable space.

3.4.1. The Town further agrees that no rezoning application that may be filed with respect to the Annexation Area shall be approved, except as further provided below, unless the Applicant agrees to contribute to the County \$12,500 for each Market Rate Dwelling unit for which a building permit is issued. Each such payment shall be made to the County prior to issuance of a certificate of occupancy for such units. Such

contributions shall be set forth in a conditional zoning proffer statement submitted in connection with any rezoning.

3.4.2. The aforesaid cash payments to the County shall be adjusted annually in accordance with the Urban Consumer Price Index ("CPI-U"), as published by the United States Department of Labor, published most nearly to, and following January 1st annually, subject to a cap of 2% per year, non-compounded, said adjustments to begin on the second anniversary of the Effective Date.

3.4.3. In order to offset the substantial initial infrastructure costs that must be incurred in connection with the development of the Annexation Area, it shall constitute compliance with the foregoing requirement for payments to the County if, in connection with any such rezoning, the Applicant proffers that the first 50% of all approved Market Rate Dwelling units shall contribute 70% of the aforesaid per unit contribution, and the remaining 50% of the Market Rate Dwelling units shall contribute 130% of the aforesaid per unit contribution, as the amount of those contributions may be adjusted in accordance with section 3.4.2. This provision shall not relate to or affect any proffered payments to the Town that may be agreed to in connection with a rezoning of all or a portion of the Property.

3.4.4. In addition to the foregoing, the Town and County agree that the Applicant in any such rezoning shall receive a credit against the foregoing monetary contributions to the County in the dollar value of any proffered and accepted dedications to the County of real property for public use. At the time of any such dedication the Applicant and the County shall each select a real estate appraiser licensed and in good standing in the Commonwealth of Virginia, who shall select a third such real estate

appraiser, and together those appraisers shall establish a value for the real property so dedicated. Such determination shall be final.

3.4.5. In connection with any development of the Annexation Property, the Town and the County agree that if the finally approved alignment of the East/West Connector requires the dedication of publicly-owned right-of-way in the vicinity of Bing Crosby Stadium, the County and the Town shall use their best good faith efforts to dedicate such right-of-way, at no cost to either jurisdiction, in a timely manner so as to permit the construction of that Connector. The Town agrees that it will not approve any rezoning of FRLP's property after the annexation, unless the rezoning application provides a voluntarily proffered condition that in the event that any such dedication adversely affects existing uses on such publicly-owned properties, FRLP shall reimburse the affected jurisdiction in connection with and as a proffer made in any rezoning application as provided for herein, for costs that the jurisdiction may be required to incur as a consequence of that dedication.

3.4.6. Upon the submission of all materials required for a rezoning Application, the Town agrees that it shall use its best good faith efforts to reclassify the property included in the rezoning application within twelve months of the receipt thereof, subject to applicable requirements of the State Code and local ordinances regarding the rezoning of property.

3.4.7. For the purposes of this Agreement, a complete rezoning application shall be an application that contains the submission materials required by the provisions of the Front Royal Town Code and the Code of Virginia, in form and substance acceptable to the Town's Director of Planning. In the event that the Director

determines that an Application is incomplete, he shall advise the applicant in writing of deficiencies noted within 10 business days of receipt thereof, and shall advise the applicant therein what information or other materials are required in order to complete the Application. The Director's acceptance of any such Application for processing shall not be unreasonably withheld.

SECTION 4. COMMISSION AND SPECIAL COURT APPROVAL

4.1. Commission on Local Government Review. The Town and the County agree to initiate promptly the steps necessary and required by Title 15.2, Chapter 34 of the Code to obtain review of this Agreement by the Commission.

4.2. Special Court Approval. Following the issuance of the report of findings and recommendations by the Commission, the Town and the County agree that they will take all steps necessary and will submit this Agreement in its approved form to a Special Court for affirmation and validation and to give it full force and effect, as required by Title 15.2, Chapter 34 of the Code.

4.3. Termination for Failure to Affirm and Validate and Give Full Force and Effect to This Agreement. The Parties agree that if this Agreement is not affirmed, validated, and given full force and effect by the Special Court without modification, this Agreement shall immediately terminate. However, the Parties may waive termination by mutually agreeing to any modifications recommended by the Special Court.

SECTION 5. AUTHORIZATION FOR THE EXECUTION OF THIS AGREEMENT.

5.1. The Town has authorized the execution and implementation of this Agreement by resolution of the Town Council, a copy of which is attached hereto as Exhibit D.

5.2. The County has authorized the execution and implementation of this Agreement by resolution of its Board, a copy of which is attached hereto as Exhibit E.

SECTION 6. FURTHER REQUIREMENTS.

6.1. Each Party agrees to perform such other and further actions as may be necessary to effectuate this Agreement and the terms and conditions hereof. Each Party further agrees that it shall expeditiously perform those duties and obligations that may be imposed on it by the terms of this Agreement, including, but not limited to, the preparation and submission of necessary materials required for application to the Commission on Local Government, the Special Court, and for approval by the United States Department of Justice.

6.2. The Town agrees to support any applications by FRLP for public funding from sources other than the Town to the extent that it does not interfere with the Town's establishment of legislative priorities, for construction of the East-West Connector road.

SECTION 7. DURATION OF AGREEMENT.

7.1. This Agreement shall remain in effect until the later of a period of twenty-five (25) years from the Effective Date, or, with respect to the Land Use and Zoning Arrangements referenced herein, the development of the Property is complete. For the purposes of this Agreement, development of the Property shall be deemed complete upon the issuance of a building permit for the last Market Rate Unit authorized to be constructed on the Property.

SECTION 8. MISCELLANEOUS PROVISIONS

8.1. Binding Effect. This Agreement contains the final and entire agreement between the Parties with respect to the matters addressed herein, and is intended to be an

integration of all prior understandings with respect thereto. It shall be binding upon and inure to the benefit of FRLP, the Town, and the County, future governing bodies of the Town and the County, and upon the heirs, successors, or assigns to or of any Party.

8.2. Amendments. This Agreement may be amended, modified, or supplemented in whole or in part, by mutual agreement of the Parties, by a written document of equal formality and dignity, duly executed by the authorized representatives of the Parties as may be permitted by law.

8.3. Enforceability. This Agreement shall be enforceable only by the Special Court or by a successor Special Court appointed to pursuant to Title 15.2, Chapter 30 of the Code, pursuant to a declaratory judgment action initiated by any of the Parties to secure the performance of any provisions, covenants, conditions and terms contained in this Agreement or the Order affirming, validating, and giving full force and effect to this Agreement.

8.4. Alternative dispute resolution. The parties to this agreement may, upon mutual written concurrence, submit any dispute arising hereunder to a mediator to facilitate the settlement of the dispute if otherwise permitted by law.

8.5. Standing. The Parties agree that each has standing to enforce any of the provisions, covenants, conditions, and terms of this Agreement.

8.6. Exhibits. All exhibits referenced herein are incorporated into this Agreement by reference thereto.

IN CONSIDERATION of the foregoing, the authorized representatives of the Town and the County have executed this Agreement in triplicate as of the date and year first herein written.

{SIGNATURES APPEAR ON FOLLOWING PAGES}

TOWN OF FRONT ROYAL, VIRGINIA

Mayor

Date: _____

WARREN COUNTY, VIRGINIA

Chairman of the Board of Supervisors

Date: _____

**VOLUNTARY SETTLEMENT AGREEMENT BETWEEN THE TOWN
OF FRONT ROYAL, VIRGINIA, WARREN COUNTY, VIRGINIA, AND
FRONT ROYAL LIMITED PARTNERSHIP**

THIS VOLUNTARY SETTLEMENT AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2013, and executed in triplicate originals (each executed copy constituting an original), by and between the TOWN OF FRONT ROYAL, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (hereinafter the "Town"), the COUNTY OF WARREN, VIRGINIA, a political subdivision of the Commonwealth of Virginia (hereinafter the "County"), and FRONT ROYAL LIMITED PARTNERSHIP, a Virginia Limited Partnership (hereinafter "FRLP"). Together the Town, County, and FRLP are collectively identified as the "Parties."

RECITALS

R-1. WHEREAS, the Parties have reached this Agreement pursuant to Title 15.2, Chapter 34, of the Code of Virginia, (i) providing for the annexation of certain territory of the County into the Town, and (ii) providing for the development of the annexation areas in accordance with a jointly approved land use plan, and

R-2. WHEREAS, FRLP is the owner of a certain tract of land containing approximately 604 acres (hereinafter the "FRLP Property"), as the same is more thoroughly identified below, and

R-3. WHEREAS, the Town and the County, after due consideration, have determined and agree that the Town's boundaries should be adjusted and relocated as identified herein, and that certain other matters should be resolved between the Parties, and

R-4. WHEREAS, FRLP desires that the FRLP Property be annexed into the Town pursuant to these terms and conditions, and

R-5. WHEREAS, the Parties have determined that this Agreement is necessary to ensure the effective provision of public services to the area to be adjusted into the Town,

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained the receipt and sufficiency of which are conclusively agreed, the Parties agree as follows:

SECTION 1. DEFINITIONS

The Parties agree that the following words, terms, and abbreviations as used in this Agreement shall have the following defined meanings, unless the context clearly provides otherwise:

- 1.1. "Town" means the Town of Front Royal, Virginia.
- 1.2. "Town Council" means the Town Council of the Town of Front Royal, Virginia.
- 1.3. "County" means the County of Warren, Virginia.
- 1.4. "Board of Supervisors" means the Board of Supervisors of the County of Warren, Virginia.
- 1.5. "Code" means the Code of Virginia (1950), as amended. A reference to a specific Code provision shall mean that Code provision as it existed on the date of execution of this Agreement or any successor provision should the Code be amended after execution of this agreement.
- 1.6. "Commission" means the Virginia Commission on Local Government.

- 1.7. "Effective Date of the Annexation" shall be the first day of the second calendar month after entry of the Order by the Special Three-Judge Court appointed pursuant to Va. Code § 15.2-3400 to affirm, validate and give full force and effect to this Agreement.
- 1.8. "Future Land Use Plan" refers to the exhibit prepared by Bowman Consulting entitled "Future Land Use Plan of Annexation Area, Front Royal Limited Partnership Property," dated March 20, 2013, and attached as Exhibit A.
- 1.9. "Market Rate Dwellings" means all types of dwelling units not restricted to persons aged 55 years and older.
- 1.10. "Section" refers to the parts of this Agreement unless the context indicates that the reference is to sections of the Code.
- 1.11. "Special Court" means the Special Three-Judge Court appointed by the Supreme Court of Virginia pursuant to Title 15.2, Chapter 30, of the Code.
- 1.12. "Subsection" refers to the parts of this Agreement set out in the various "Sections."

SECTION 2. VOLUNTARY ANNEXATION OF PROPERTY BY THE TOWN

2.1. Annexation Agreement. The Town and the County agree to the annexation by the Town of certain territory consisting of the FRLP Property, more specifically described by metes and bounds on the attached Exhibit B. A survey showing the FRLP Property to be annexed shall be prepared (the "Survey"). The area so identified is referred to herein as the "Annexation Area," and is generally described as the area lying to the

northeast of the existing Town boundaries to the north of Happy Creek Road, to the west of State Route 606 (Shenandoah Shores Road), and to the south of Interstate 66. It comprises approximately 604 acres of land more or less.

2.2. Submission of the Survey. The Survey shall be submitted to and filed with the Commission and the Special Court appointed to affirm, validate, and give full force and effect to this Agreement.

2.3. Extension of Municipal Utility Services. Except as otherwise provided herein, the Town agrees that upon the Effective Date, the Town will permit the extension of its municipal utility services to the Annexation Area on the same basis and at the same level and rates as such services are now or hereafter provided to the areas within its current corporate limits where like conditions exist. The owner of property within the Annexation Area shall be responsible for the costs of extension of public utility services.

2.4. Electric Utility Service Endorsement. The County and FRLP will favorably endorse, at such reasonable times and in such reasonable manner as the Town may request, expansion of the Town's electric utility service to the Property upon its becoming part of the Town.

SECTION 3. LAND USE AND ZONING ARRANGEMENTS IN THE ANNEXATION AREA

3.1. Future Land Use. Pursuant to the provisions of Va. Code Ann. § 15.2-3400(2), the Parties agree that the orderly development of the Annexation Area is in the best interest of the Parties and to that end the Parties agree that the Future Land Use Plan (Exhibit A), which depicts the proposed land use for the Annexation Area, represents a reasonable and appropriate conceptual Plan for the future development of that Area subject to further consideration during the rezoning process.

3.2. Comprehensive Plan Amendment. The Town and the County agree that promptly upon validation of this Agreement by order of the Special Court, each will use its best good faith efforts to amend its Comprehensive Plan to incorporate the Future Land Use Plan therein. Nothing herein shall prohibit the Town and County from repealing, modifying, or amending the Future Land Use Plan, with the mutual consent of both parties, and in accordance with law.

3.3. Transitional Zoning Classification of the Annexation Area. As of the Effective Date the Property within the Annexation Area shall be classified "Agriculture and Open Space Preservation District A-1" pursuant to the Town's Zoning Ordinance. This District shall apply to the Annexation Area pending the orderly amendment of the Town's Zoning Ordinance and Zoning Map as set forth herein.

3.4. Future Zoning Actions with Respect to the Annexation Area. Application to rezone all or a portion of the Annexation Area may be made at any time in accordance with law, provided that the Town will not approve a rezoning of all or a portion of the Property that would result in the construction of more than 818 Market Rate Dwelling units on the Property, for the duration of this Agreement. Single-family detached Market Rate Dwellings shall comprise not less than 1,600 square feet of habitable space.

3.4.1. The Town further agrees that no rezoning application that may be filed with respect to the Annexation Area shall be approved, except as further provided below, unless the Applicant agrees to contribute to the County \$12,500 for each Market Rate Dwelling unit for which a building permit is issued. Each such payment shall be made to the County prior to issuance of a certificate of occupancy for such units. Such

contributions shall be set forth in a conditional zoning proffer statement submitted in connection with any rezoning.

3.4.2. The aforesaid cash payments to the County shall be adjusted annually in accordance with the Urban Consumer Price Index ("CPI-U"), as published by the United States Department of Labor, published most nearly to, and following January 1st annually, subject to a cap of 2% per year, non-compounded, said adjustments to begin on the second anniversary of the Effective Date.

3.4.3. In order to offset the substantial initial infrastructure costs that must be incurred in connection with the development of the Annexation Area, it shall constitute compliance with the foregoing requirement for payments to the County if, in connection with any such rezoning, the Applicant proffers that the first 50% of all approved Market Rate Dwelling units shall contribute 70% of the aforesaid per unit contribution, and the remaining 50% of the Market Rate Dwelling units shall contribute 130% of the aforesaid per unit contribution, as the amount of those contributions may be adjusted in accordance with section 3.4.2. This provision shall not relate to or affect any proffered payments to the Town that may be agreed to in connection with a rezoning of all or a portion of the Property.

3.4.4. In addition to the foregoing, the Applicant in any such rezoning shall receive a credit against the foregoing monetary contributions to the County in the dollar value of any proffered and accepted dedications to the County of real property for public use. At the time of any such dedication the Applicant and the County shall each select a real estate appraiser licensed and in good standing in the Commonwealth of Virginia, who shall select a third such real estate appraiser, and together those appraisers

shall establish a value for the real property so dedicated. Such determination shall be final.

3.4.5. In connection with any development of the Annexation Property, the Town and the County agree that if the finally approved alignment of the East/West Connector requires the dedication of publicly-owned right-of-way in the vicinity of Bing Crosby Stadium, the County and the Town shall use their best good faith efforts to dedicate such right-of-way, at no cost to either jurisdiction, in a timely manner so as to permit the construction of that Connector. In the event that any such dedication adversely affects existing uses on such publicly-owned properties, FRLP shall reimburse the affected jurisdiction in connection with and as a proffer made in any rezoning application as provided for herein, for costs that the jurisdiction may be required to incur as a consequence of that dedication.

3.4.6. Upon the submission of all materials required for a rezoning Application, the Town agrees that it shall use its best good faith efforts to reclassify the property included in the rezoning application within twelve months of the receipt thereof, subject to applicable requirements of the State Code and local ordinances regarding the rezoning of property.

3.4.7. For the purposes of this Agreement, a complete rezoning application shall be an application that contains the submission materials required by the provisions of the Front Royal Town Code and the Code of Virginia, in form and substance acceptable to the Town's Director of Planning. In the event that the Director determines that an Application is incomplete, he shall advise the applicant in writing of deficiencies noted within 10 business days of receipt thereof, and shall advise the

applicant therein what information or other materials are required in order to complete the Application. The Director's acceptance of any such Application for processing shall not be unreasonably withheld.

SECTION 4. COMMISSION AND SPECIAL COURT APPROVAL

4.1. Commission on Local Government Review. The Town and the County agree to initiate promptly the steps necessary and required by Title 15.2, Chapter 34 of the Code to obtain review of this Agreement by the Commission.

4.2. Special Court Approval. Following the issuance of the report of findings and recommendations by the Commission, the Town and the County agree that they will take all steps necessary and will submit this Agreement in its approved form to a Special Court for affirmation and validation and to give it full force and effect, as required by Title 15.2, Chapter 34 of the Code.

4.3. Termination for Failure to Affirm and Validate and Give Full Force and Effect to This Agreement. The Parties agree that if this Agreement is not affirmed, validated, and given full force and effect by the Special Court without modification, this Agreement shall immediately terminate. However, the Parties may waive termination by mutually agreeing to any modifications recommended by the Special Court.

SECTION 5. AUTHORIZATION FOR THE EXECUTION OF THIS AGREEMENT.

5.1. The Town has authorized the execution and implementation of this Agreement by resolution of the Town Council, a copy of which is attached hereto as Exhibit D.

5.2. The County has authorized the execution and implementation of this Agreement by resolution of its Board, a copy of which is attached hereto as Exhibit E.

SECTION 6. FURTHER REQUIREMENTS.

6.1. Each Party agrees to perform such other and further actions as may be necessary to effectuate this Agreement and the terms and conditions hereof. Each Party further agrees that it shall expeditiously perform those duties and obligations that may be imposed on it by the terms of this Agreement, including, but not limited to, the preparation and submission of necessary materials required for application to the Commission on Local Government, the Special Court, and for approval by the United States Department of Justice.

6.2. The Town agrees to support any applications by FRLP for public funding from sources other than the Town to the extent that it does not interfere with the Town's establishment of legislative priorities, for construction of the East-West Connector road.

SECTION 7. DURATION OF AGREEMENT.

7.1. This Agreement shall remain in effect until the later of a period of twenty-five (25) years from the Effective Date, or, with respect to the Land Use and Zoning Arrangements referenced herein, the development of the Property is complete. For the purposes of this Agreement, development of the Property shall be deemed complete upon the issuance of a building permit for the last Market Rate Unit authorized to be constructed on the Property.

SECTION 8. MISCELLANEOUS PROVISIONS

8.1. Binding Effect. This Agreement contains the final and entire agreement between the Parties with respect to the matters addressed herein, and is intended to be an integration of all prior understandings with respect thereto. It shall be binding upon and

inure to the benefit of FRLP, the Town, and the County, future governing bodies of the Town and the County, and upon the heirs, successors, or assigns to or of any Party.

8.2. Amendments. This Agreement may be amended, modified, or supplemented in whole or in part, by mutual agreement of the Parties, by a written document of equal formality and dignity, duly executed by the authorized representatives of the Parties as may be permitted by law.

8.3. Enforceability. This Agreement shall be enforceable only by the Special Court or by a successor Special Court appointed pursuant to Title 15.2, Chapter 30 of the Code, pursuant to a declaratory judgment action initiated by any of the Parties to secure the performance of any provisions, covenants, conditions and terms contained in this Agreement or the Order affirming, validating, and giving full force and effect to this Agreement.

8.4. Alternative dispute resolution. The parties to this agreement may, upon mutual written concurrence, submit any dispute arising hereunder to a mediator to facilitate the settlement of the dispute if otherwise permitted by law.

8.5. Standing. The Parties agree that each has standing to enforce any of the provisions, covenants, conditions, and terms of this Agreement.

8.6. Exhibits. All exhibits referenced herein are incorporated into this Agreement by reference thereto.

IN CONSIDERATION of the foregoing, the authorized representatives of FRLP, the Town, and the County have executed this Agreement in triplicate as of the date and year first herein written.

{SIGNATURES APPEAR ON FOLLOWING PAGES}

TOWN OF FRONT ROYAL, VIRGINIA

Mayor

Date: _____

WARREN COUNTY, VIRGINIA

Chairman of the Board of Supervisors

Date: _____

FRONT ROYAL LIMITED PARTNERSHIP,
a Virginia limited Partnership

By: MVA Limited Partnership, general partner of
Front Royal Limited Partnership

By: DOC Corporation, general partner of MVA
Limited Partnership

By: _____
David A. Vazzana, President of
DOC Corporation

Date: _____

Town of Front Royal, Virginia
Work Session Agenda Form

Date: March 3, 2014

Agenda Item: Liaison Committee Items for March 20, 2014 Meeting

Summary: Council is requested to add items to the Liaison Committee Meeting Agenda scheduled for March 20, 2014. Items will be voted on at the regularly scheduled meeting on March 10, 2014. The list of items from the January Liaison Committee meeting is attached.

Council Discussion: Council takes desired action

Staff Evaluation: N/A

Budget/Funding: N/A

Legal Evaluation: N/A

Staff Recommendations: N/A

Town Manager Recommendation: N/A

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action

Consensus Poll on Action: ___(Aye) ___(Nay)



AGENDA TOWN/COUNTY LIAISON COMMITTEE MEETING

Town Administration Building
102 E. Main Street

January 16, 2014
6:00 p.m.



-
1. **Call to Order**
Timothy Darr, Mayor of Front Royal
 - 1) Law Enforcement at the Skate Park
 - 2) Catlett Mountain Landfill Improvements
 - 3) Leach Run Parkway Project
 - 4) Waste Water Treatment Plant/Septage Receiving Facility
 - 5) South Fork Bridge Lighting, Agreement for Installation/Maintenance
 - 6) Blue Ridge Shadows Proffer Amendment Request
 - 7) Route 340/522 Corridor
 - 8) FRLP
 - 9) Proposed Park-N-Ride Location
 - 10) Riverton Substation (Warren County Plan Review Update)
 - 11) Property Boundary Adjustment Process
 2. **Adjournment**