



DANVILLE CITY COUNCIL REGULAR MEETING AGENDA

MUNICIPAL BUILDING

July 5, 2018

7:00 P.M.

PRESIDING: Alonzo L. Jones, Mayor

CITY COUNCIL MEMBERS: James B. Buckner
L.G. "Larry" Campbell, Jr.
Gary P. Miller
Sherman M. Saunders

Fred O. Shanks, III
Adam J. Tomer
J. Lee Vogler, Jr., Vice Mayor
Madison J. Whittle

STAFF: Ken F. Larking, City Manager
Earl B. Reynolds, Jr., Deputy City Manager
W. Clarke Whitfield, Jr., City Attorney
Susan M. DeMasi, City Clerk

The City Council is the City of Danville's legislative body and is composed of nine Council members. Council members are elected to serve a four year term of office and elects one of its own to serve as Mayor and presiding officer for a two year term.

Time and Place of Meeting

The public is invited and encouraged to attend and participate in the City Council meetings. The City Council meets in the City Hall, Fourth Floor, Council Chambers at 7:00 p.m. on the first and third Tuesday of each month. All meetings of the Council are open to the public.

Communications from Visitors

Communication from Visitors is an opportunity for citizens to address Council on matters not on the agenda. Citizens who desire to speak on agenda items will be heard when the agenda item is considered. Each speaker shall clearly state his or her name and address. Each individual speaker shall have five uninterrupted minutes. A representative of a group may have up to ten uninterrupted minutes to make a presentation. The representative shall identify the group and a group may have no more than one spokesperson. Time will be kept using the electronic timer on the podium.

Guidelines for Public Hearings

For Public Hearings the applicant or his or her representative shall be the first speaker(s). There shall be a time limit of ten (10) minutes for the applicant's or his or her representative's presentation. The presiding officer shall then solicit comments from the public, asking those in favor of the proposal to speak first, and then those opposed to the proposal. Each speaker must clearly state his or her name and address. There

shall be a time limit of three (3) minutes for each individual speaker. If the speaker represents a group, there shall be a time limit of five (5) minutes. A speaker representing a group shall identify the group at the beginning of his or her remarks. A group may have no more than one spokesperson. The presiding officer may limit or preclude comment which is repetitive, redundant, cumulative, or irrelevant to the subject of the public hearing. After public comments have been received, in a land use case, the applicant or the representative of the applicant, at his or her discretion, may respond with a rebuttal. There shall be a five (5) minute time limit for rebuttal.

MEETING CALLED TO ORDER

ROLL CALL

INVOCATION - J. Lee Vogler, Jr.

PLEDGE OF ALLEGIANCE TO THE FLAG

COMMUNICATIONS FROM VISITORS

Citizens who desire to speak on matters not listed on the agenda will be heard at this time. Citizens who desire to speak on agenda items will be heard when the agenda item is considered.

MINUTES

- A. Consideration of Approval of Minutes from Regular Council Meeting held on June 5, 2018.
Council Letter Number CL - 1927.

NEW BUSINESS

- A. Consideration of Granting a Special Use Permit for Commercial Recreation (Outdoor) at 209 Trade Street.
Council Letter Number CL - 1925.
 - 1. Public Hearing
 - 2. An Ordinance Granting a Special Use Permit for Commercial Recreation (Outdoor) in Accordance with Article 3:M, Section C, Item 4 of the Code of the City of Danville, Virginia 1986, as Amended, at 209 Trade Street, Otherwise Known as Grid 1713, Block 003, Parcel 000008, of the City of Danville, Virginia Zoning District Map.
 - B. Consideration of Authorizing the Issuance of General Obligation Bonds of the City of Danville in the Maximum Principal Amount of \$16,000,000.
Council Letter Number CL - 1913
 - 1. Public Hearing
 - 2. An Ordinance Authorizing the Issuance of Bonds of the City Of Danville, Virginia, in the Maximum Principal Amount of \$16,000,000 to Finance the Acquisition, Construction and Equipping of Various Capital Projects.
- FIRST READING**

- C. Consideration of Authorizing the City Manager to Execute a Lease Agreement with Milestone Tower Limited Partnership-IV.
Council Letter Number CL - 1928
1. Public Hearing
 2. A Resolution Authorizing and Approving the City Manager to Execute a Lease Agreement with Milestone Tower Limited Partnership-IV for the Placement of a Communications Tower and Equipment at 300 Goode Street.
- D. Consideration of Authorizing an Application to the Virginia Department of Rail and Public Transportation for Mass Transit Funding.
Council Letter Number CL - 1920
1. Public Hearing
 2. A Resolution Authorizing an Application by the City to the Virginia Department of Rail and Public Transportation for Grants for Operating and Capital Costs for Public Transportation for Fiscal Year 2019.
- E. Consideration of Filing an Application to the U.S. Department of Transportation for a Grant Under the Federal Transit Act.
Council Letter Number CL - 1921
1. Public Hearing
 2. A Resolution Confirming and Ratifying the Filing of an Application by the City to the U.S. Department of Transportation for a Grant Under the Federal Transit Act, As Amended.
- F. Consideration of Amending the FY2019 Budget Appropriation Ordinance to Provide for Federal and State Transit Capital Assistance Funds for Regional Bus Service.
Council Letter Number CL - 1922

An Ordinance Amending the Fiscal Year 2019 Budget Appropriation Ordinance to Provide for Federal and State Transit Capital Assistance Funds Related to the Provision of Regional Bus Service by the Danville Transit System to Halifax and Pittsylvania Counties.

FIRST READING

- G. Consideration of Amending the Fiscal Year 2019 Budget Appropriation Ordinance for a Department of Criminal Justice Services Grant to Fund the Gang Prevention Coordinator.
Council Letter Number CL - 1923.

An Ordinance Amending the Fiscal Year 2019 Budget Appropriation Ordinance by Increasing Revenue for a Department of Criminal Justice Services, Commonwealth of Virginia, Office of the Attorney General Grant for Establishment of the Danville Crime Prevention to be used to Fund the Gang Prevention Coordinator.

FIRST READING

COMMUNICATIONS FROM:

- A. City Manager
- B. Deputy City Manager
- C. City Attorney

D. City Clerk

E. Roll Call

ADJOURNMENT

Council Letter

City of Danville, Virginia



CL-1927

Meeting Minutes Item #: A.

City Council Regular Meeting

Meeting Date: 07/05/2018

Subject: Consideration of Approval of Minutes

From: Susan M. DeMasi, Clerk of Council

COUNCIL ACTION

Business Meeting: 07/05/2018

SUMMARY

Consideration of Approval of Minutes from Regular Council Meeting held on June 5, 2018.

Council Letter Number CL - 1927.

Attachments

Minutes

June 5, 2018

The Regular June meeting of the Danville City Council was held on June 5, 2018, at 7:00 p.m. in the Council Chambers located on the Fourth Floor of the Municipal Building. The following Council Members were present: James B. Buckner, L.G. "Larry" Campbell Jr., Mayor John B. Gilstrap, Vice Mayor Alonzo L. Jones, Dr. Gary P. Miller, Sherman M. Saunders, Fred O. Shanks, III, J. Lee Vogler, Jr., and Madison J.R. Whittle (9).

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

Mayor Gilstrap presided.

INVOCATION AND PLEDGE OF ALLEGIANCE

The Invocation was given by Council Member Sherman M. Saunders; the Pledge of Allegiance to the Flag followed.

ANNOUNCEMENTS AND SPECIAL RECOGNITIONS

Mayor Gilstrap read a Proclamation entitled Alzheimer's & Brain Awareness Month and presented it to Sandy Saunders; Mrs. Saunders introduced her co-chair for Danville, Cathy Younger. Mrs. Saunders noted she was a member of the Alzheimer's Association Advisory Board for Western and Central Virginia, the Danville Walk to End Alzheimer's Committee, and thanked Mayor Gilstrap and members of City Council for this recognition. The Walk to End Alzheimer's will be on September 22, in Ballou Park and she will be glad to sign up teams. Citizens can go to the Alzheimer's website which is alz.org to learn more about the disease and the walk. Council Members thanked Mrs. Saunders for all they were doing.

Mayor Gilstrap recognized Wendi Emerson, senior program officer from the Danville Regional Foundation. Ms. Everson noted they are working very hard to create a thriving Dan River Region that works well for everyone; for some residents in certain communities this is not true and they are living in crisis. In some communities almost 70% of the children are living in poverty. Their goal is to help transform long term strategies that can help these neighborhoods become full of opportunity. They have chosen some targeted areas the City chose with the Danville Neighborhood Development Corporation and the work of the Health Collaborative. They have been developing community leaders at the start, have created a community council and invited grass root leaders that are working in each of those communities. Council Members welcomed the interns to Danville and thanked Ms. Everson for her work.

COMMUNICATIONS FROM VISITORS

Mayor Gilstrap recognized Louis Garnett, City of Danville who discussed a problem with his utility bill and a driving charge.

Mayor Gilstrap recognized Brother Abdul Akim Abdullah, citizen of Danville, who invited Council and citizens to join him in a celebration of community at an Event called "Meet the New Police Chief", June 23, 11:00 a.m. to 4:00 p.m.

Mayor Gilstrap recognized Angela Baldwin, owner of the Colonial Heights Apartments off Arnett Boulevard in Danville, who discussed problems created when the creek flooded behind the Apartments.

June 5, 2018

Mayor Gilstrap recognized Marc Gignac, Director of the IALR who gave Council a brief update on activities at the Institute and requested Council reappoint Charles Majors to the Institute for Advanced Learning and Research Board.

OLD BUSINESS

Consideration of Approval of Increasing the Meals Tax of the City of Danville from Six Percent (6%) to Six and One-Half Percent (6.5%)

Upon **Motion** by Council Member Miller and **second** by Council Member Campbell, an Ordinance entitled, Ordinance No. 2018-05.07, presented by its First Reading on May 15, 2018, Amending and Reordaining Section 37-141 of the Danville City Code to Increase the Tax on Meals Served in Restaurants or by Caterers from Six (6) Percent to Six and One Half Percent (6.5%) Effective July 1, 2018, was adopted by the following vote:

VOTE: 7-2
AYE: Buckner, Campbell, Gilstrap, Jones, Miller,
Saunders, and Vogler (7)
NAY: Shanks, Whittle (2)

CONSENT AGENDA

Mayor Gilstrap opened the floor for a Public Hearing for the Budget Items under the Consent Agenda. Notice of the Public Hearing was published in the *Danville Register & Bee* on Tuesday, May 29, 2018. No one present desired to be heard and the Public Hearing was closed.

Council Member Whittle **moved** for adoption of the following Consent Agenda items:

Minutes from the April 17, 2018 Regular Council meeting. Draft copies had been distributed prior to the Meeting.

Budget Amendment - Amending the FY2018 BAO for State Department of Aviation Security Funds for Replacement of Security Equipment and Software

An Ordinance entitled Ordinance No. 2018-05.04, presented by its First Reading on May 15, 2018, Amending the Fiscal Year 2018 Budget Appropriation Ordinance to Provide for State Department of Aviation Security Grant Funds Related to the Replacement of Security Equipment and Software at the Danville Regional Airport for \$54,003 and of the Local Share for \$12,266 for a Total Appropriation of \$66,269 and Appropriating the Same

Revising Rental Rates For Hangars at the Danville Regional Airport

An Ordinance entitled Ordinance No. 2018-05.05, presented by its First Reading on May 15, 2018, Authorizing and Approving Revised Rental Rates for T-Hangars and Corporate Hangars at the Danville Regional Airport Effective August 1, 2018

Budget Amendment – Consideration of Appropriating \$1,300,000 to Establish a Capital Project Fund for Design and Construction of a Track Facility

June 5, 2018

An Ordinance entitled Ordinance No. 2018-05.03, presented by its First Reading on May 15, 2018, Amending the Fiscal Year 2018 Budget Appropriation Ordinance to Provide for a Transfer from the General Fund Reserved Fund Balance in the Amount of \$1,300,000 to Establish a Capital Project Fund for the Design and Construction of a Danville City Track and Field Facility and Appropriating the Same

Consideration of Approval of Increasing Various Fees and Charges

An Ordinance entitled Ordinance No. 2018-05.06, presented by its First Reading on May 15, 2018, Establishing Certain Community Development, Public Works and Fire Departments Permits & Inspection Fees and Charges Effective July 1, 2018

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

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

Budget Amendment – Amending the FY2018 BAO Increasing the Carryforward of Unexpended Funds for Schools and Creating a Reserve for School Improvements of Unexpended Funds

An Ordinance entitled Ordinance No. 2018-05.02, presented by its First Reading on May 15, 2018, Amending the Fiscal Year 2018 Budget Appropriation Ordinance to Provide for an Increase in the Carryforward of Unexpended Funds for Support of Schools from \$1,000,000 to \$2,000,000 and to Establish a Reserve for School Capital Projects was carried by the following vote:

VOTE: 8-0-1
AYE: Buckner, Campbell, Gilstrap, Miller,
Saunders, Shanks, Vogler and Whittle (8)
NAY: None
ABSTAIN: Jones (1)

STATEMENT OF CONFLICT OF INTEREST

I, Alonzo L. Jones, do hereby state that I have a conflict of interest regarding the consideration of increasing the Carryforward of unexpended funds for schools and creating a reserve for school improvements of unexpended funds, listed on the agenda as Consent Agenda Item (F). Therefore, pursuant to the State and Local Government Conflict of Interest Act, Virginia Code §2.2-3112, I must abstain from voting on this agenda item.

Witness my signature this 6th day of June, 2018.

s/Alonzo L. Jones

Mayor Gilstrap noted for clarification, Vice Mayor Jones voted for Consent Items B-E and G and abstained on Consent Item F.

NEW BUSINESS

BUDGET AMENDMENT - AMENDING THE FY 2018 BAO, AS FISCAL AGENT, FOR FUNDS FROM THE DANVILLE REGIONAL FOUNDATION FOR AN EAGLE SCOUT PROJECT AT DAN DANIEL PARK

Upon **Motion** by Council Member Buckner and **second** by Council Member Whittle, an Ordinance entitled:

ORDINANCE NO. 2018-06.01

AMENDING THE FISCAL YEAR 2018 BUDGET APPROPRIATION ORDINANCE TO INCLUDE A GRANT FROM THE DANVILLE REGIONAL FOUNDATION IN THE AMOUNT OF \$24,000 AS THE FISCAL AGENT FOR AN EAGLE SCOUT PROJECT TO INSTALL STEPS BETWEEN THE UPPER AND LOWER SOCCER FIELDS AT DAN DANIEL MEMORIAL PARK

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

BUDGET AMENDMENT – CONSIDERATION OF AMENDING THE FY2018 BAO FOR VICTIM WITNESS PROGRAM FUNDS IN THE AMOUNT OF \$173,611

Upon **Motion** by Council Member Shanks and **second** by Vice Mayor Jones, an Ordinance entitled:

ORDINANCE NO. 2018-06.02

AMENDING THE FISCAL YEAR 2018 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR A GRANT FROM THE COMMONWEALTH FOR A VICTIM WITNESS PROGRAM IN THE AMOUNT OF \$173,611 AND APPROPRIATING SAME

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

BUDGET AMENDMENT – CONSIDERATION OF AMENDING THE FY2018 BAO FOR A GRANT FOR A DOMESTIC VIOLENCE VICTIM PROGRAM GRANT IN THE AMOUNT OF \$44,635

Upon **Motion** by Council Member Buckner and **second** by Council Member Shanks, an Ordinance entitled:

ORDINANCE NO. 2018-06.03

AMENDING THE FISCAL YEAR 2018 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR A GRANT FROM THE COMMONWEALTH FOR A DOMESTIC VIOLENCE VICTIM PROGRAM GRANT IN THE AMOUNT OF \$44,635 AND APPROPRIATING SAME

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

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BUDGET AMENDMENT – CONSIDERATION OF AMENDING THE FY2018 BAO FOR ECONOMIC DEVELOPMENT INCENTIVES IN THE AMOUNT OF \$1,695,979

Upon **Motion** by Council Member Campbell and **second** by Council Member Shanks, an Ordinance entitled:

ORDINANCE NO. 2018-06.04

AMENDING THE FISCAL YEAR 2018 BUDGET APPROPRIATION ORDINANCE FOR TWO VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP COMMONWEALTH OPPORTUNITY FUND GRANTS IN THE AMOUNT OF \$125,000 AND \$200,000 RESPECTIVELY AND A GRANT FROM THE TOBACCO REGION REVITALIZATION OPPORTUNITY FUND IN THE AMOUNT OF \$1,370,979 FOR A TOTAL OF \$1,695,979 AS AN ECONOMIC DEVELOPMENT INCENTIVE FOR TAXABLE CAPITAL INVESTMENT AND JOB CREATION IN THE COMMONWEALTH OF VIRGINIA

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

APPROVING CHANGES TO THE CITY OF DANVILLE'S PERSONNEL SYSTEM

Vice Mayor Jones **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2018-06.05

AMENDING THE PERSONNEL SYSTEM OF THE CITY OF DANVILLE PROVIDING FOR THE CLASSIFICATION, COMPENSATION, AND EMPLOYEE DEVELOPMENT FOR EMPLOYMENT POSITIONS OF THE CITY.

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

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

PUBLIC HEARING – GRANTING A SPECIAL USE PERMIT FOR COMMERCIAL RECREATION (INDOOR) AT 1340 WEST MAIN STREET

Mayor Gilstrap opened the floor for a Public Hearing for a Special Use Permit at 1340 West Main Street. Notice of the Public Hearing was published in the *Danville Register & Bee* on May 22, 2018 and May 29, 2018. No one present desired to be heard and the Public Hearing was closed.

Council Member Vogler **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2018-06.06

GRANTING A SPECIAL USE PERMIT FOR COMMERCIAL RECREATION (INDOOR) IN ACCORDANCE WITH ARTICLE 3:N, SECTION C, ITEM 4 OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA 1986, AS AMENDED AT 1340 WEST MAIN STREET.

June 5, 2018

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

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

PUBLIC HEARING – GRANTING A SPECIAL USE PERMIT FOR A SCHOOL AT 101 FRANKLIN TURNPIKE

Mayor Gilstrap opened the floor for a Public Hearing for a Special Use Permit at 101 Franklin Turnpike. Notice of the Public Hearing was published in the *Danville Register & Bee* on May 22, 2018 and May 29, 2018. No one present desired to be heard and the Public Hearing was closed.

Council Member Shanks **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2018-06.07

GRANTING A SPECIAL USE PERMIT FOR A SCHOOL IN ACCORDANCE WITH ARTICLE 3:M, SECTION C, ITEM 15 OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA 1986, AS AMENDED AT 101 FRANKLIN TURNPIKE

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

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

PUBLIC HEARING - AMEND CHAPTER 41 ENTITLED “ZONING ORDINANCE” OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA TO ALLOW FOR COMMUNICATION TOWERS WITHIN THE TO-C ZONING DISTRICT

Mayor Gilstrap opened the floor for a Public Hearing to Amend Chapter 41 of the Danville City Code. Notice of the Public Hearing was published in the *Danville Register & Bee* on May 22, 2018 and May 29, 2018.

Mayor Gilstrap recognized Drew Patterson, the Project Manager representing the applicant, Milestone Communications. Mr. Patterson noted the City's Zoning Ordinance does not allow towers within the TO-C district, they are requesting the Code change to allow towers to be requested in the TO-C with a Special Use Permit. Mayor Gilstrap noted this tower is very near a ballfield and will have lighting, and Mr. Patterson noted that was correct and explained there is an existing light pole at this location. They will be replacing that light pole in the same location and making it into a communication tower/light pole. The lights will be at the same height they are now, but will have a communication tower on top. Council Member Vogler questioned if there will be any other lighting on the pole, such as blinking lights or anything of that nature. Mr. Patterson noted it would not, they received a determination that no lighting or marking is required. Council Member Miller questioned what type of lighting would be used and Mr. Patterson noted it will be the same lighting that is currently lighting the baseball field, consistent with all the other baseball field lights.

June 5, 2018

No one further desired to be heard and the Public Hearing was **closed**.

Council Member Vogler **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2018-06.08

AMENDING CHAPTER 41 ENTITLED "ZONING ORDINANCE" OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986 AS AMENDED, MORE SPECIFICALLY ARTICLE 2, ENTITLED "GENERAL REGULATIONS", SECTION R. ENTITLED "COMMUNICATION TOWERS AND ANTENNAS", ITEM 6. AND ARTICLE 3.I: ENTITLED "TO-C TRANSITIONAL OFFICE", SECTION C. ENTITLED "USES PERMITTED BY SPECIAL USE" TO ALLOW FOR COMMUNICATION TOWERS WITHIN TO-C ZONING DISTRICTS

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

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

PUBLIC HEARING – GRANTING A SPECIAL USE PERMIT TO CONSTRUCT A COMMERCIAL COMMUNICATION TOWER AND ANTENNA AT 300 GOODE STREET

Mayor Gilstrap opened the floor for a Public Hearing for a Special Use Permit at 300 Goode Street. Notice of the Public Hearing was published in the *Danville Register & Bee* on May 22, 2018 and May 29, 2018.

Mayor Gilstrap recognized Drew Patterson, Project Manager representing Milestone Communications who stated they are requesting a set back waiver as part of this request. The property is owned by the City of Danville, the adjacent property that they would need relief from is owned by the Danville School Board. The Ordinance requires for a 125' tower, that they be 62.5 feet, half the tower height, from all property lines, and they are not on that particular property line; they do need a setback waiver on one side. Council Member Shanks questioned if this required a separate advertised Public Hearing and Director of Community Development Ken Gillie noted it did not. There are a couple ways the waiver can be granted on towers and one is by the Planning Commission; at the Planning Commission meeting they granted that waiver. Council Member Buckner questioned if they paid rent and will that come directly to the City or be split between the School Board and City for the land use. Mr. Patterson noted it is a City of Danville property, and believes it will go straight to the City. No one further desired to be heard and the Public Hearing was closed.

Council member Shanks **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2018-06.09

GRANTING A SPECIAL USE PERMIT TO CONSTRUCT A COMMERCIAL COMMUNICATION TOWER AND ANTENNA IN ACCORDANCE WITH ARTICLE 3:I, SECTION C, ITEM 24 OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA 1986, AS AMENDED AT 300 GOODE STREET.

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

June 5, 2018

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

PUBLIC HEARING - CONSIDERATION OF APPROVAL OF THE HOUSING AND URBAN DEVELOPMENT 2018-2019 ANNUAL ACTION PLAN

Mayor Gilstrap opened the floor for a Public Hearing for Approval of the HUD 2018-2019 Annual Action Plan. Notice of the Public Hearing was published in the *Danville Register & Bee* on April 27, 2018. No one present desired to be heard and the Public Hearing was closed.

Council Member Saunders **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-06.01

AUTHORIZING THE CITY MANAGER TO SUBMIT TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) A ONE YEAR ACTION PLAN

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

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

PUBLIC HEARING – CONSIDERATION OF AUTHORIZING THE CITY MANAGER TO CONVEY PARCEL 21402, LOT 1A, OWED BY THE CITY TO THE IDA

Mayor Gilstrap opened the floor for a Public Hearing to consider Authorizing the City Manager to convey property to the IDA. Notice of the Public Hearing was published in the *Danville Register & Bee* on May 28, 2018. No one present desired to be heard and the Public Hearing was closed.

Council Member Buckner **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-06.02

AUTHORIZING AND APPROVING THE CITY MANAGER TO CONVEY THE EXISTING LOT OWNED BY THE CITY OF DANVILLE, LOCATED BETWEEN NEWTON STREET AND 600 LYNN STREET, IDENTIFIED AS PARCEL 21403 LOT 1A, TO THE INDUSTRIAL DEVELOPMENT AUTHORITY OF DANVILLE, VIRGINIA.

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

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

June 5, 2018

**APPROVING A RESOLUTION REQUESTING THE US 58/29 BYPASS BE NAMED
“WENDELL O. SCOTT, SR., MEMORIAL HIGHWAY.”**

Vice Mayor Jones **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2018-06.03

A RESOLUTION IN SUPPORT OF NAMING THE US 58 BYPASS IN THE CITY OF DANVILLE AS “WENDELL O. SCOTT, SR., MEMORIAL HIGHWAY”.

The Motion was **seconded** by all Council Members.

Mayor Gilstrap recognized Warrick Scott, CEO of Wendell Scott Foundation and grandson of Wendell Scott. Mr. Scott thanked City Council and the City Manager for being in such agreeance for this type of honor. It is a huge step in crystalizing his grandfather's legacy and making it available for the masses. Mr. Scott thanked all the volunteers, members of the Wendell Scott Foundation and the mentees being mentored by the Wendell Scott Foundation. They went through the community and got signatures from people that were in support of this initiative; the youth saw how they can start in one place, continue a process and complete that process and know that forevermore that they were part of that.

Council Member Shanks stated he wanted to acknowledge how important this was, not just for the Scott family but the community. Wendell Scott was a legend and it was a worthy opportunity for the City to take advantage of. Mr. Shanks noted he attended Galileo High School's graduation, saw Mr. Scott's daughter wasn't there, but was happy to hear about her victories in the State track meet, and noted his congratulations. Mr. Scott stated a track in the City is sorely needed, and traveling over the past few years, he has seen the opportunities other youth have; now is the time to establish a facility. It creates so many opportunities for youth and also gives them the opportunity to access real dollars to attend secondary school. Mr. Scott noted they are coming up on the 55th Anniversary of Wendell Scott's first NASCAR victory in 1963 in Jacksonville. The Wendell Scott Foundation is planning a celebration on December 8th at the Institute for Advanced Learning and Research to honor this legacy. Council Member Saunders recognized Wendell Scott's son and thanked him for his service as well. Mr. Saunders noted Wendell Scott was recognized by former President Obama and stated he was pleased this happened, and thanked the City Manager for making this happen, a step above and beyond the original request. Vice Mayor Jones noted people don't understand the challenges that Warrick and his wife go through trying to do the things they do for the young people in the community and congratulated them. Council Member Miller noted many Council members went to the ceremony at the NASCAR Hall of Fame, it was an awesome event honoring a great person from Danville. This will bring a lot a good recognition and thanked Mr. Scott for what he has done. Council Member Campbell noted he echoed what has been said and stated he did have personal experience with Mr. Scott as he used to go by the shop and talk with him; he was always working on cars and always had time to talk to young people. Council is very proud of him and his mark in the community.

The **Motion** was carried by the following vote:

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

June 5, 2018

PUBLIC HEARING – CONSIDERATION OF APPROVAL OF THE BUDGET FOR FY2019 FOR DANVILLE PUBLIC SCHOOLS

Mayor Gilstrap opened the floor for a Public Hearing for consideration of Approval of the Budget for Danville Public Schools. Notice of the Public Hearing was published in the *Danville Register & Bee* on May 28, 2018. No one present desired to be heard and the Public Hearing was closed.

Upon **Motion** by Council Member Campbell and **second** by Council Member Miller, a Resolution entitled:

RESOLUTION NO. 2018-06.04

APPROVING THE BUDGET OF THE SCHOOL BOARD OF THE CITY OF DANVILLE, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2019

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

CONSIDERATION OF APPROVAL OF THE BUDGETS FOR THE CITY OF DANVILLE AND THE CSP, AND THE BUDGET APPROPRIATION ORDINANCE FOR FY2019

Mayor Gilstrap opened the floor for a Public Hearing for consideration of Approval of the Budgets for the City of Danville and the Budget Appropriation Ordinance. Notice of the Public Hearing was published in the *Danville Register & Bee* on May 28, 2018. No one present desired to be heard and the Public Hearing was closed.

Approving the Budgets of the Various Funds of the City of Danville for the Fiscal Year Ending June 30, 2019.

Upon **Motion** by Vice Mayor Jones and **second** by Council Member Saunders, a Resolution entitled:

RESOLUTION NO. 2018-06.05

APPROVING THE BUDGETS OF THE VARIOUS FUNDS OF THE CITY OF DANVILLE, VIRGINIA FOR THE FISCAL YEAR ENDING JUNE 30, 2019

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

Approving the Fiscal Year 2019 Capital and Special Projects Plan for the City of Danville, Virginia

Upon **Motion** by Council Member Vogler and **second** by Council Member Buckner, a Resolution entitled:

RESOLUTION NO. 2018-06.06

A RESOLUTION APPROVING THE FISCAL YEAR 2019 CAPITAL AND SPECIAL PROJECTS PLAN FOR THE CITY OF DANVILLE, VIRGINIA.

June 5, 2018

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

Budget Appropriation Ordinance for Fiscal Year 2019

Upon **Motion** by Council Member Buckner and **second** by Vice Mayor Jones, an Ordinance entitled:

ORDINANCE NO. 2018-06.10

BUDGET APPROPRIATION ORDINANCE FOR FISCAL YEAR 2019

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

COMMUNICATIONS

City Manager Ken Larking noted an event at the North Main Theatre, the Hunchback of Notre Dame is playing for one more weekend; it is a great show with a lot of public support. City Attorney Clarke Whitfield noted Emma and Alex Larking are featured in the Hunchback of Notre Dame as well as Morgan Spencer who is the Assistant City Attorney's daughter. Mr. Larking noted Mr. Whitfield's son is also in the play. There were no communications from the Deputy City Manager or City Clerk.

ROLL CALL

Council Member Campbell noted the Danville Regional Foundation does very important work helping move the City forward. Mr. Campbell thanked Mrs. Saunders and her work with Alzheimer's and thanked the Scott family. Mr. Campbell also thanked Ms. Jean Jackson, Mothers Strong Together, and appreciates their efforts for the City of Danville. There was a function over the weekend with an excellent turnout and the motto is, No Shooting, No Homicides for the month of June.

Mayor Gilstrap thanked everyone for attending.

Vice Mayor Jones thanked everyone for attending. Council Members and citizens received information about the toddler and are happy she is safe, and all those that worked so hard to find her, they are appreciative of them. Mr. Jones thanked Sandy Saunders and her co-chair for what they are doing; Mrs. Saunders is involved in so much in the community and thanked her for all that she does. Mr. Jones thanked Mr. Scott for all he has been doing for the City and congratulated all the graduates, and all the teachers for what they do.

Council Member Miller thanked Mrs. Saunders for being here tonight, she did a great job and noted Constance Covington was present tonight, who does a great job in the community. Dr. Miller noted Music on Main will be starting soon and encouraged citizens to attend, and on May 20th, his daughter-in-law gave birth to his first grandchild.

Council Member Saunders noted Council talked about Wendell Scott and his children and all the work they do; Mr. Scott had a lot of character and taught his children character. His son Frankie, is a retired school teacher, principal and one of the winningest coaches in Virginia,

June 5, 2018

and is still being called back to the schools to help out. Mr. Saunders noted it was good to see Ms. Covington back and thanked all the City employees for what they do every day, and a special thanks to public safety employees, they are called on by everyone.

Council Member Shanks noted the Hunchback of Notre Dame is an excellent production, he was amazed at the sets, sounds and lighting, everything was very professional and the children, who are between 8 and 18 years old, did an unbelievable job. Mr. Shanks encouraged citizens to go see the production; Mimi Grubb has done a great job putting that together.

Council Member Vogler noted his congratulations to the Scott family. Mr. Vogler discussed the City's budget, noting they have heard citizens say to cut spending; he agreed and wanted to cut spending where it makes sense. Council did cut spending, a total of \$1,251,747 in cuts to the budget. This year's budget spends less money than last year's budget and Council will continue to reduce spending in other places where they can. Council said it wanted to do more for public safety employees and that is included in this budget. To do that, the City has to have an ongoing revenue source to pay for it. Tonight's meals tax vote was a compromise that was originally proposed by Councilman Whittle, that was a smaller increase than would have been in the budget. Council has reduced spending but also provided the funds to give teachers the step increases they deserve, provide better support for public safety and did this while reducing the overall budget. Mr. Vogler stated he didn't want to approve a meals tax increase; if Council hadn't made a serious effort to reduce spending, he would have voted against it again. The majority of the goals that the Council set out to do were achieved in this year's budget.

Council Member Whittle stated when he said that he would go a half a percent on the meals tax, that was based on a cut of 1.5% on the \$60M, that is the reason he voted, to put it on the table. Mr. Whittle thanked the Scott family, and thanked Mrs. Saunders for her work with Alzheimer's.

Council Member Buckner thanked everyone for being there tonight, and thanked everyone who came out to the Bridge Street Food Truck Festival, there was a great turnout. Mr. Buckner noted people may be seeing a Segway train riding through Danville this weekend; it is a new company that is looking to relocate here in Danville and people will be on Segway's all over the River District this weekend.

The meeting adjourned at 8:34 p.m.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Council Letter

City of Danville, Virginia



CL-1925

New Business Item #: A.

City Council Regular Meeting

Meeting Date: 07/05/2018

Subject: Request for a Special Use Permit for commercial recreation (outdoor) in accordance with Article 3:M, Section C, Item #4 at 209 Trade St.

From: Kenneth C. Gillie, Jr., Community Development Director

COUNCIL ACTION

Business Meeting: 7/05/2018

SUMMARY

A request has been filed for a Special Use Permit for commercial recreation (outdoor) in accordance with Article 3:M, Section C, Item 4 of the Code of the City of Danville, Virginia 1986, as amended at 209 Trade Street, otherwise known as Grid 1713, Block 003, Parcel 000008, of the City of Danville, Virginia Zoning District Map. The applicant is proposing to construct an outdoor event venue for concerts and performances.

BACKGROUND

An application has been filed by Ethan Brown, requesting a Special Use Permit for commercial recreation (outdoor) in accordance with Article 3:M, Section C, Item 4 of the Code of the City of Danville, Virginia 1986, as amended at 209 Trade Street, otherwise known as Grid 1713, Block 003, Parcel 000008, of the City of Danville, Virginia Zoning District Map. The applicant is proposing to construct an outdoor event venue for concerts and performances.

The property is currently operated as Two Witches Winery and Brewery. This facility is used for indoor events, as well as a winery and brewery. The applicant is proposing to construct an elevated outdoor stage to allow for concerts and other exterior recreation opportunities. The site is within the 100-year flood plain, but the facility has been located to be outside of the regulated floodway. Construction within the 100-year floodplain can be permitted and this has been discussed with the applicant. The proposal for development is for a relocation of existing dirt material from one spot on site to be used to fill another so that no net increase in material on site will be added. This balanced fill is compliant with code requirements.

At their meeting of June 11, 2018, the Planning Commission voted 6-0 (Commissioner Jones absent) to recommend approval subject to the following conditions:

1. Any outdoor performances must end by midnight (12:00 am) and none shall begin before 7:00 a.m.
2. Any structure constructed must comply with flood plain regulations.

RECOMMENDATION

It is recommended that City Council adopt an Ordinance Granting a Special Use Permit for commercial recreation (outdoor) in accordance with Article 3:M, Section C, Item 4 of the Code of the City of Danville, Virginia 1986, as amended at 209 Trade Street, otherwise known as Grid 1713, Block 003, Parcel 000008, of the City of Danville, Virginia Zoning District Map, subject to the following conditions:

1. Any outdoor performances must end by midnight (12:00 am) and none shall begin before 7:00 a.m.
2. Any structure constructed must comply with flood plain regulations.

Attachments

Ordinance

Planning Backup

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018-____.____

AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR COMMERCIAL RECREATION (OUTDOOR) IN ACCORDANCE WITH ARTICLE 3 M, SECTION C, ITEM 4 OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA 1986, AS AMENDED, AT 209 TRADE STREET, OTHERWISE KNOWN AS GRID 1713, BLOCK 003, PARCEL 000008, OF THE CITY OF DANVILLE, VIRGINIA ZONING DISTRICT MAP.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia, that the report of the Planning Commission recommending approval of Special Use Permit application PLSUP20180000138, filed by Ethan Brown, requesting a Special Use Permit for commercial recreation (outdoor) in accordance with Article 3 M, Section C, Item 4 of the Code of the City of Danville, Virginia 1986, as amended, at 209 Trade Street, otherwise known as Grid 1713, Block 003, Parcel 000008, of the City of Danville, Virginia Zoning District Map, is hereby received, subject to the following conditions:

1. Any outdoor performances must end by midnight (12:00 am) and none shall begin before 7:00 a.m.
2. Any structure constructed must comply with flood plain regulations.

AND BE IT FURTHER ORDAINED that in consideration of said report and the public hearing this day held by Council, Special Use Permit application PLSUP20180000138, filed by Ethan Brown, requesting a Special Use Permit for commercial recreation (outdoor) in accordance with Article 3 M, Section C, Item 4 of the Code of the City of Danville, Virginia 1986, as amended at 209 Trade Street, otherwise known as Grid 1713, Block 003, Parcel 000008, of the City of Danville, Virginia Zoning District Map is hereby granted and approved subject to the following conditions:

1. Any outdoor performances must end by midnight (12:00 am) and none shall begin before 7:00 a.m.
2. Any structure constructed must comply with flood plain regulations.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney



City of Danville
427 Patton Street, Suite 208
Danville VA, 24541
Phone: (434) 799-5260

City Planning Commission

MEMORANDUM

DATE: JUNE 11, 2018
TO: CITY COUNCIL
FROM: CITY PLANNING COMMISSION
SUBJECT: SPECIAL USE PERMIT REQUEST

REQUEST:

Special Use Permit application PLSUP20180000138, filed by Ethan Brown, requesting a Special Use Permit for commercial recreation (outdoor) in accordance with Article 3:M, Section C, Item 4 of the Code of the City of Danville, Virginia 1986, as amended at 209 Trade Street, otherwise known as Grid 1713, Block 003, Parcel 000008, of the City of Danville, Virginia Zoning District Map. The applicant is proposing to construct an outdoor event venue for concerts and performances..

RECOMMENDATION:

The Planning Commission voted 6-0 (Commissioner Jones absent) to recommend approval of the request subject to the following conditions:

1. Any outdoor performances must end by midnight (12:00 am) and none shall begin before 7:00 a.m.
2. Any structure constructed must comply with flood plain regulations.

Michael W. Searce (KLG)
Mr. Michael Searce, Chairman

COMMENTS:

Nine (9) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. Four (4) responses were received unopposed. (LEA 3 LLC, Jimmie New, New Peaceful Zion Apostolic Church Trustees, and Riverside Hardware Inc.)

COMMENTS:

No written comments received



City of Danville
427 Patton Street, Suite 208
Danville VA, 24541
Phone: (434) 799-5260

City Planning Commission

City Planning Commission
Meeting of June 11, 2018

Subject:

Special Use Permit application PLSUP20180000138, filed by Ethan Brown, requesting a Special Use Permit for commercial recreation (outdoor) in accordance with Article 3:M, Section C, Item 4 of the Code of the City of Danville, Virginia 1986, as amended at 209 Trade Street, otherwise known as Grid 1713, Block 003, Parcel 000008, of the City of Danville, Virginia Zoning District Map. The applicant is proposing to construct an outdoor event venue for concerts and performances.

Background:

An application has been filed by Ethan Brown, requesting a Special Use Permit for commercial recreation (outdoor) in accordance with Article 3:M, Section C, Item 4 of the Code of the City of Danville, Virginia 1986, as amended at 209 Trade Street, otherwise known as Grid 1713, Block 003, Parcel 000008, of the City of Danville, Virginia Zoning District Map. The applicant is proposing to construct an outdoor event venue for concerts and performances.

The property is currently operated as Two Witches Winery and Brewery. This facility is used for indoor events, as well as a winery and brewery. The applicant is proposing to construct an elevated outdoor stage to allow for concerts and other exterior recreation opportunities. The site is within the 100-year flood plain, but the facility has been located to be outside of the regulated floodway. Construction within the 100-year floodplain can be permitted and this has been discussed with the applicant. The proposal for development is for a relocation of existing dirt material from one spot on site to be used to fill another so that no net increase in material on site will be added. This balanced fill is compliant with code requirements.

Nine (9) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. A full report will be presented at the City Planning Commission meeting on June 11, 2018.

Recommendation:

The Planning staff recommends approval of Special Use Permit application PLSUP20180000138, filed by Ethan Brown, requesting a Special Use Permit for commercial recreation (outdoor) in accordance with Article 3:M, Section C, Item 4 of the Code of the City of Danville, Virginia 1986, as amended at 209 Trade Street, otherwise known as Grid 1713, Block 003, Parcel 000008, of the City of Danville, Virginia Zoning District Map subject to the following conditions:

1. Any outdoor performances must end by midnight (12:00 am) and none shall begin before 7:00 a.m.
2. Any structure constructed must comply with flood plain regulations.

City Planning Commission Alternatives:

1. Recommend approval of Special Use Permit application PLSUP20180000138 as submitted.
2. Recommend approval of Special Use Permit application PLSUP20180000138 subject to conditions by the Planning Commission
3. Recommend denial of Special Use Permit application PLSUP20180000138 as submitted.
4. Recommend postponement of Special Use Permit application PLSUP20180000138 by Planning Commission.

Attachments:

Application
Property Ownership/Zoning Map
Data Sheet
Existing Land Use Map (2015 Aerial)

CITY OF DANVILLE

SPECIAL USE PERMIT APPLICATION

TO THE CITY PLANNING COMMISSION AND THE HONORABLE CITY COUNCIL:

Application is hereby made for the Special Use Permit as described below:

INFORMATION TO BE PROVIDED BY THE PLANNING DIVISION

APPLICATION IS HEREBY MADE FOR A SPECIAL USE PERMIT TO AUTHORIZE THE FOLLOWING
USE: _____

CASE NUMBER: _____ EXISTING ZONING: _____

PROPOSED ZONING: _____ TAX MAP NUMBER: _____

RECEIVED BY: _____ DATE FILED: _____

PLANNING COMMISSION DATE: _____ CITY COUNCIL DATE: _____

INFORMATION TO BE PROVIDED BY THE APPLICANT
(PLEASE TYPE OR PRINT)

Exact legal description of property (Attach if insufficient space).

GIS information is attached to this application.

Gross Area/Net Area: _____ Property Address: **209 Trade Street, Danville, VA 24541**

Property Location: N S E W Side of: _____ Dan River

Between: _____ Barter Street _____ and _____ Exchange Street

Proffered Conditions (if any, please attach): _____ None

EXPLANATION OF REQUEST:

1. PROPOSED USE FOR THE SPECIAL USE PERMIT:

Please provide a site plan with the following information:

- Proposed use of the land: size and location of structures with dimensions to lot lines.
- Vehicular circulation system with points of ingress and egress.
- Existing on-site buildings, separation dimensions and paved areas.
- Location and dimensions of all parking and loading areas, including the number of off-street parking and loading spaces provided.
- Net acreage.
- Gross and net square footage of building (s) (proposed and existing).
- Required landscaping and buffer areas.

Please provide a brief description of the proposed development:

2 Witches Winery & Brewing Company proposes to design and construct an outdoor pavilion on its property at 209 Trade Street for the purposes of accommodating ticketed outdoor concerts and performances. Additional details of the proposed pavilion are attached to this document.

PRESENT OWNER (S) OF ALL PROPERTIES INCLUDED IN APPLICATION (PLEASE TYPE OR PRINT):

1. NAME: Ethan Brown TELEPHONE: (434)549-2739

MAILING ADDRESS: 209 Trade Street, Danville, VA 24541

SIGNATURE:  DATE: 1 May 2018

SIGNATURE: _____ DATE: _____

EMAIL ADDRESS: 2witcheswinery@gmail.com

APPLICANT (PLEASE TYPE OR PRINT):

If the applicant is not the property owner, written authorization from the property owner must accompany this application.

NAME: Ethan Brown TELEPHONE: (434)549-2739

MAILING ADDRESS: 209 Trade Street, Danville, VA 24541

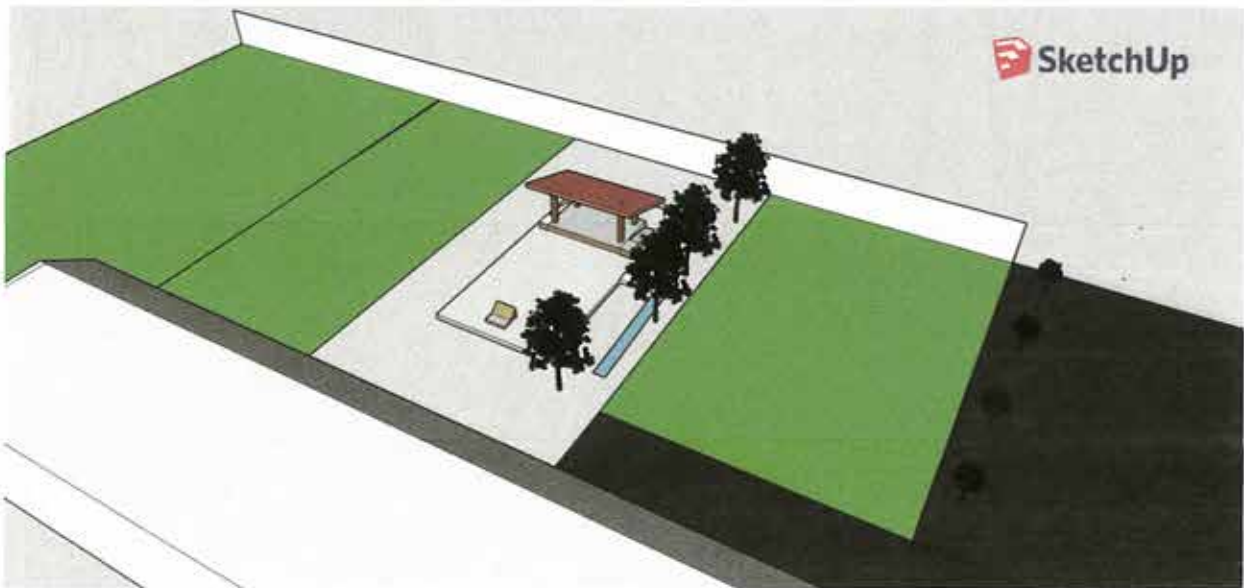
EMAIL ADDRESS: 2witcheswinery@gmail.com

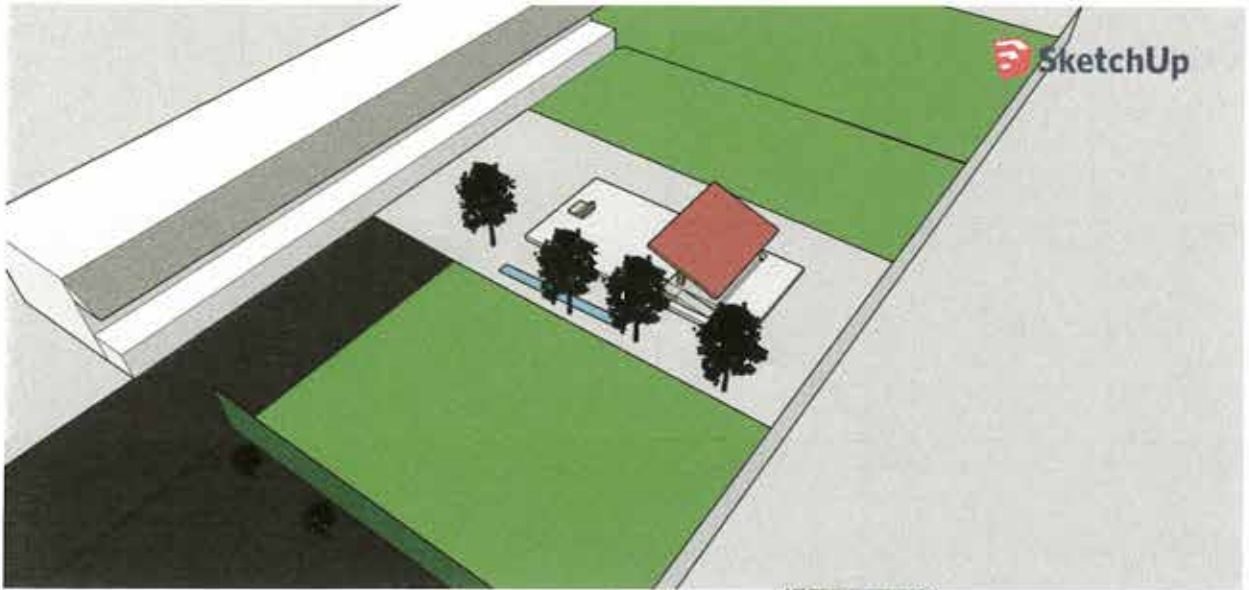
SIGNATURE:  DATE: 1 May 2018

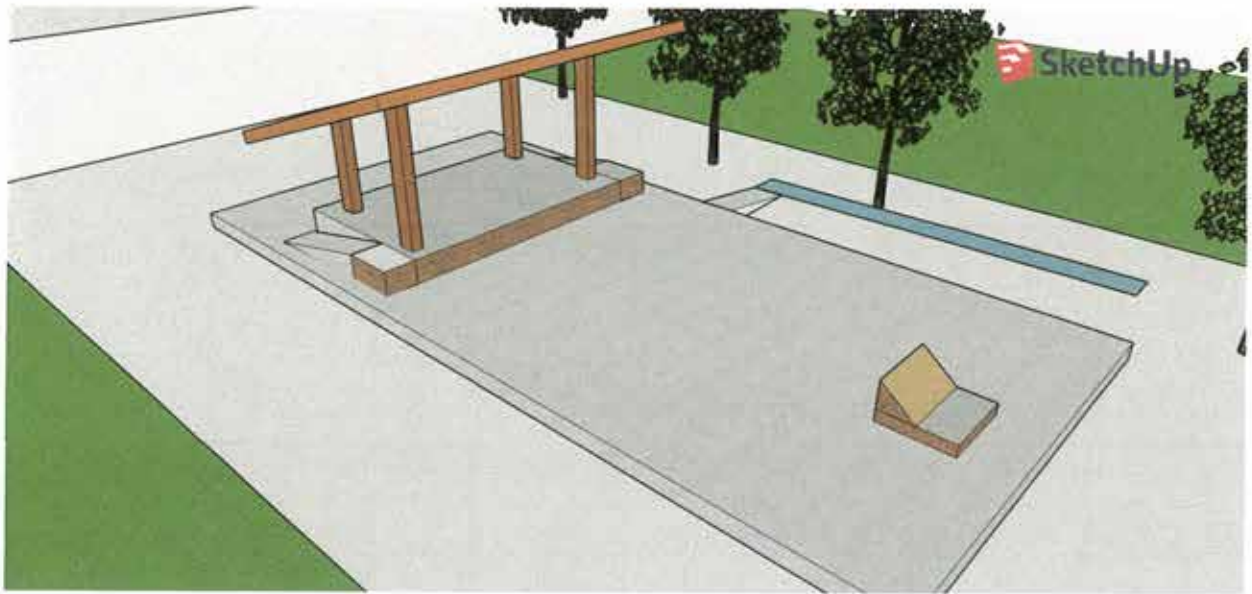
Site Plan Data:

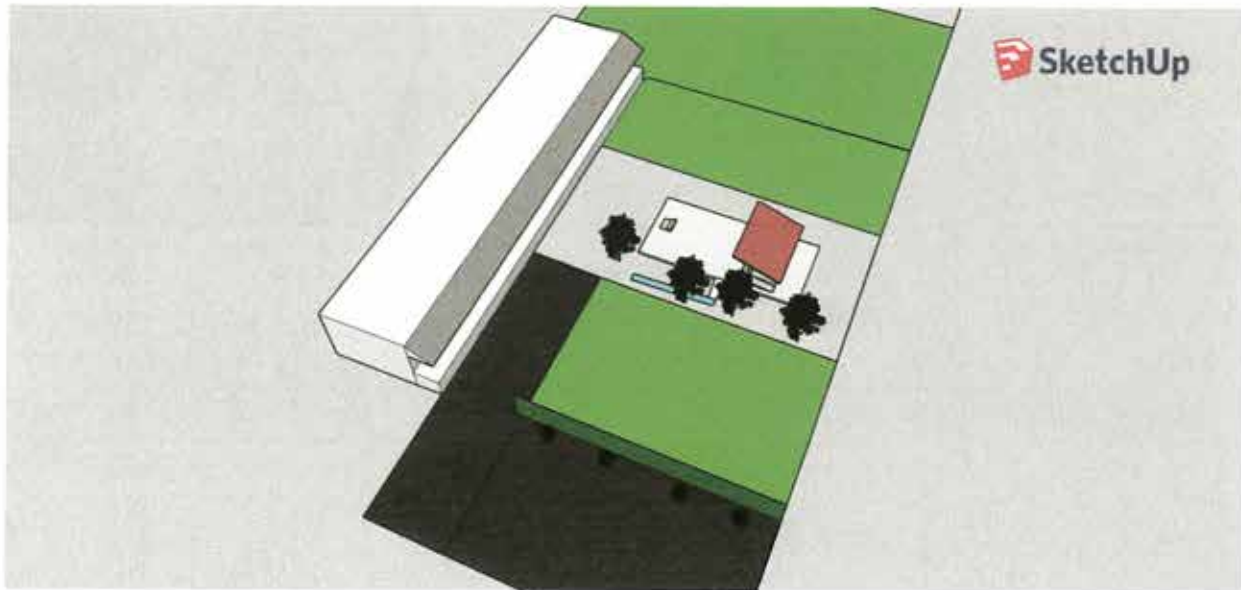
1. Proposed use: The pavilion will be used as a performance venue for musicians and artists.
2. Vehicular traffic: It is expected that traffic flow will be the same as currently exists for normal business operations at 2 Witches Winery & Brewing Co.
3. Parking areas that are currently in use for normal operations will also be used for events at the venue.
4. The pavilion will be constructed on an existing concrete pad on the property. The base of the stage will be 23' x 15' x 2' and have a slanted roof (16') supported by four beams. There will be two ramps on either side of the stage. There will also be a small sound operator booth positioned at the opposite end of the concrete pad on which the pavilion will be constructed. This booth will be 1' x 4' x 5'. Materials of construction will be brick, wood, concrete, and metal roofing.
5. 220V/50 amp electric service will be provided to the pavilion and sound booth from the main building via underground conduit.

3-D images of proposed pavilion:



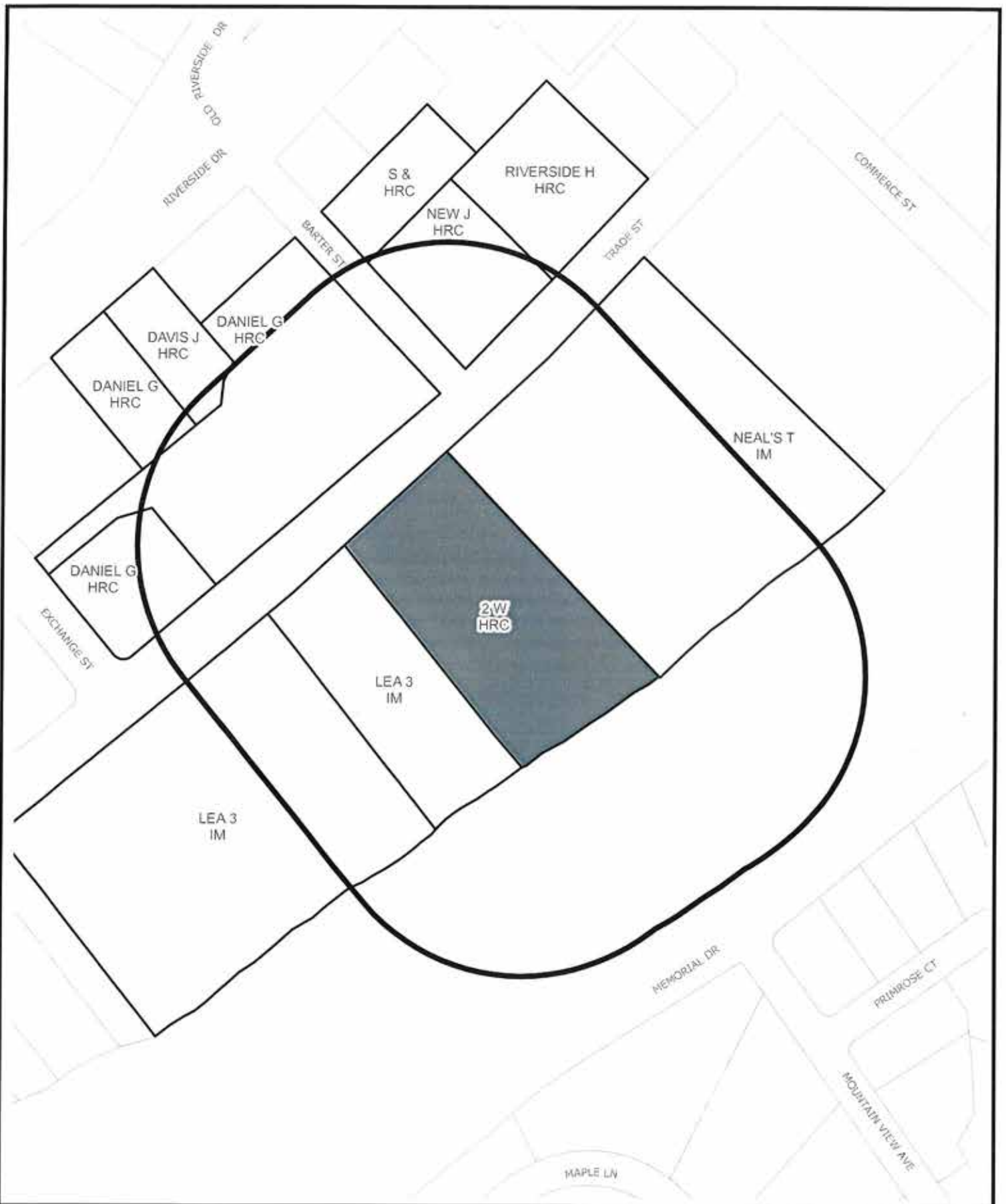






SPECIAL USE PERMIT REQUEST
DATA SHEET

DATE:	June 11, 2018
LOCATION OF PROPERTY:	209 Trade Street
PRESENT ZONE:	HR-C Highway Retail Commercial
PROPOSED ZONE:	Same
ACTION REQUESTED:	The applicant is requesting Special Use Permits to construct an outdoor event venue for concerts and performances.
PRESENT USE OF PROPERTY:	Winery
PROPOSED USE OF PROPERTY:	Same with added outdoor events
PROPERTY OWNER (S):	2 Witches Holding Company, LLC
NAME OF APPLICANT (S):	Ethan Brown
PROPERTY BORDERED BY:	Warehouse and commercial uses to the east and west, the Dan River to the south, office and commercial to the north.
ACREAGE/SQUARE FOOTAGE:	1.95 Acres
CHARACTER OF VICINITY:	Commercial
INGRESS AND EGRESS:	Trade Street
TRAFFIC VOLUME:	Low
NEIGHBORHOOD REACTION:	To be reported at the Planning Commission meeting of June 11, 2018



SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY



Prepared by:
Planning Division
5/22/2018

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



2015 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

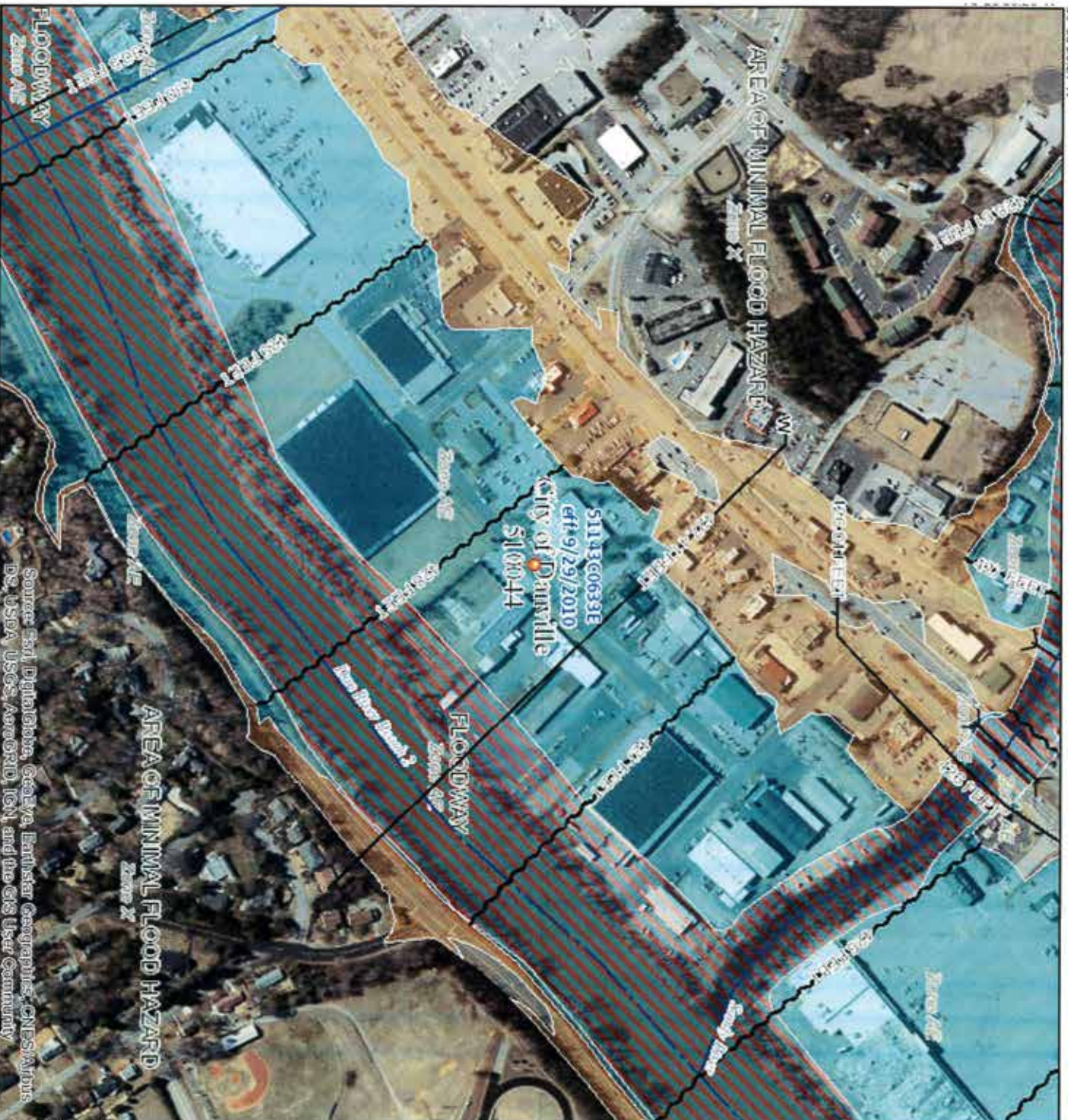
Prepared by:
Planning Division
5/22/2018

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for any errors or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.

National Flood Hazard Layer FIRMeTte



36°35'23.27"N



Source: Nat. Digital Data, Google, Earthstar Geographics, CNES/Airbus
 DC, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Legend

SEE THIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS

- Without Base Flood Elevation (BFE)
- With BFE or Depth
- Regulatory Floodway Zone AE, AO, VE, AP

0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone I

Future Conditions 1% Annual Chance Flood Hazard Zone X

Area with Reduced Flood Risk due to Levee See Notes, Zone X

Area with Flood Risk due to Levee Zone D

OTHER AREAS OF FLOOD HAZARD

NO SCREEN

- Area of Minimal Flood Hazard Zone X
- Effective LOMRs

OTHER AREAS

GENERAL STRUCTURES

- Area of Undetermined Flood Hazard Zone
- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

OTHER FEATURES

- Cross Sections with 1% Annual Chance Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

MAP PANELS

- Digital Data Available
- No Digital Data Available
- Unmapped



This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The base map shown complies with FEMA's base map accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 6/12/2018 at 12:13:26 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: base map imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRMI panel number, and FIRMI effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Council Letter

City of Danville, Virginia



CL-1913

New Business Item #: B.

City Council Regular Meeting

Meeting Date: 07/05/2018

Subject: Ordinance Authorizing the Use of FY 2019 Debt Capacity

From: Michael Adkins, Director of Finance

COUNCIL ACTION

First Reading: 7/05/2018

Final Adoption: 7/17/2018

SUMMARY

The City's Charter grants the ability to issue bonds, within a specified annual limit, without a referendum. Each year's bond capacity may carry forward to the next fiscal year, if the authorization is granted by Council prior to June 30. Approving the attached Ordinance does not allow the City to issue debt, it only reserves the capacity to issue debt based on FY 2019's legal limits for issuing debt without a referendum. This capacity is only available from now until the end of the subsequent fiscal year (June 30, 2020.) Council would need to approve a Resolution for the issuance or refunding of debt before the City can actually issue debt. A Resolution will be presented to Council in several weeks to approve a new bond issue to finance the FY 2019 Capital Improvements Plan in accordance with Council's adopted budget for FY 2019.

BACKGROUND

The City's Charter grants the ability to issue up to \$6,000,000 principal amount of bonds to finance any capital expenditures other than expenditures relating to the City's water, sewer, gas, and/or electrical systems. Further, the Charter grants authority to issue up to \$10,000,000 principal amount of bonds to finance capital expenditures related to the City's water, sewer, gas, and electrical systems, or other specific undertakings from which a revenue may be derived. The Charter also allows an additional \$25,000,000 in principal amount of bonds to be issued to finance capital expenditures relating to the City's water treatment, wastewater treatment, stormwater treatment, solid waste disposal or recycling facilities, and any extraordinary maintenance improvements or expansion of transmission and distribution infrastructure for the electric or gas systems. Each of the amounts may be authorized annually without referendum and may carry forward one fiscal year, if authorized, prior to June 30.

The FY 2019 budget for capital projects includes potential bond financing for \$3,396,440 of General Fund projects and \$4,000,000 of Electric Fund projects. The passing of this Ordinance will allow access to the borrowing capacity needed to finance these approved projects, but does not actually authorize the issuance of the bonds. A separate Ordinance will be brought to City Council for approval for the actual issuance of the bonds.

RECOMMENDATION

It is recommended Council approve the attached Ordinance authorizing issuance of General Obligation bonds of the City of Danville, Virginia, in the maximum principal amount of \$6,000,000, pursuant to Section 9-7A of the City Charter, as well as a maximum amount of \$10,000,000 pursuant to Section 9-7D of the City Charter.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018-____. ____

AN ORDINANCE AUTHORIZING THE ISSUANCE OF BONDS OF THE CITY OF DANVILLE, VIRGINIA, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$16,000,000 TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF VARIOUS CAPITAL PROJECTS.

WHEREAS, Section 9-7A of the City Charter allows the City of Danville, Virginia (the "City"), to issue each fiscal year up to \$6,000,000 principal amount of bonds to finance any capital expenditures other than for capital expenditures relating to the City's water, sewer, gas and/or electric systems, without submitting the question of their issuance to the voters; and

WHEREAS, the Council of the City (the "Council") has not authorized or issued any bonds pursuant to Section 9-7A for the fiscal year that began July 1, 2018, and the Council now desires to authorize the issuance of up to \$6,000,000 principal amount of bonds in accordance with such Charter provision; and

WHEREAS, Section 9-7D of the City Charter allows the City to issue each fiscal year up to \$10,000,000 principal amount of bonds to finance capital expenditures relating to the City's water, sewer, gas and electric systems or other specific undertaking or undertakings from which the City may derive a revenue, without submitting the question of their issuance to the voters; and

WHEREAS, the Council has not authorized or issued any bonds pursuant to Section 9-7D for the fiscal year that began July 1, 2018, and the Council now desires to authorize the issuance of a up to \$10,000,000 principal amount of bonds in accordance with such Charter provision.

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

1. It is determined to be necessary and expedient for the City to plan, design, acquire, construct, extend, renovate and/or improve the Projects described below, to borrow money for such purposes and to issue the City's bonds therefor.

2. Pursuant to Section 9-7A of the City Charter, there are authorized to be issued general obligation bonds in the maximum principal amount of \$6,000,000 to provide funds for any capital expenditures (other than for capital expenditures relating to the City's water, sewer, gas and/or electric systems), including but not limited to financing various capital expenditures for general governmental purposes including, without limitation, (a) acquisition, installation and equipping of fire equipment, (b) acquisition and installation of an emergency generator for a public building, (c) public building improvements, (d) parks and recreation improvements, (e) street and traffic management improvements and (f) airport improvements (collectively, the "9-7A Project"). Such bonds may be issued as one or more separate issues or may be combined with bonds authorized for other purposes and issued as a single issue.

3. Pursuant to Section 9-7D of the City Charter, there are authorized to be issued general obligation and/or revenue bonds in the maximum principal amount of \$10,000,000 to provide funds, together with other available funds, for capital expenditures relating to the City's water, sewer, gas and electric systems or other specific undertaking or undertakings from which the City may derive a revenue, including, without limitation, substation and line improvements for the electric system (collectively, the "9-7D Project" and, together with the 9-7A Project, the "Projects"). Such bonds may be issued as one or more separate issues or may be combined with bonds authorized for other purposes and issued as a single issue.

4. The bonds shall conform to Section 9-5 of the City Charter and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denominations and form, be executed in such manner, and be sold at such time or times and in such manner as the Council shall hereafter provide by appropriate resolution or resolutions. All bonds issued to finance capital expenditures shall be made payable within the average

probable period of usefulness of the improvements or undertakings to be financed. The Council shall make such determinations pursuant to such resolution or resolutions.

5. As determined by Council pursuant to subsequent resolution, the bonds shall be issued as general obligations of the City to which the City's full faith and credit of the City shall be irrevocably pledged, or, in the alternative for purposes of financing the 9-7D Project, the bonds may be issued as revenue obligations to which the revenues of the City's electric, gas, water and wastewater systems shall be irrevocably pledged.

6. The City Clerk, in collaboration with the City Attorney, is authorized and directed to see to the immediate filing of a certified copy of this Ordinance in the Circuit Court of the City of Danville.

7. This Ordinance shall take effect immediately.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

Council Letter

City of Danville, Virginia



CL-1928

New Business Item #: C.

City Council Regular Meeting

Meeting Date: 07/05/2018

Subject: Lease for Communications Tower at 300 Goode Street

From: Richard Drazenovich, Public Works Director

COUNCIL ACTION

Business Meeting: 07/05/2018

SUMMARY

Milestone Tower Limited Partnership-IV has requested permission to build a communications tower at Lefty Wilson ballpark (300 Goode St.). The property was rezoned for this purpose through Council action on June 5, 2018.

The tower will replace the right field light pole; Milestone Communications will re-install the ball field lights at the same height. No other changes will be made to the playing surface. Milestone will also provide space, at no cost, on the tower for future City of Danville 2-way radio communications needs.

The initial term of the lease will be forty (40) years and the revenue to be collected from this lease is 40% of gross revenues collected from each carrier (approximately \$900/month). A site fee of \$20,000 will be paid to the City at the start of construction.

RECOMMENDATION

It is recommended that City Council adopt a Resolution Authorizing the City Manager to execute a Lease Agreement with Milestone Tower Limited Partnership-IV for the placement of a communications tower and equipment at 300 Goode St.

Attachments

Resolution

Tower Lease

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018 - __. __

A RESOLUTION AUTHORIZING AND APPROVING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH MILESTONE TOWER LIMITED PARTNERSHIP-IV FOR THE PLACEMENT OF A COMMUNICATIONS TOWER AND EQUIPMENT AT 300 GOODE ST.

WHEREAS, it is in the public interest of the citizens of Danville that communication companies co-locate their equipment on facilities already in existence; and

WHEREAS, the City of Danville has numerous facilities, including but not limited to water towers, radio towers, and buildings where co-location of communication towers, antennas, and equipment can serve the citizens; and

WHEREAS, in order to further promote communications within the Dan River Region while preserving the aesthetic nature of the City of Danville, it is the intent of City Council to authorize the City Manager to negotiate lease for co-location of a communication tower upon public facilities.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Danville, Virginia, that it does hereby approve the lease agreement by and between the City of Danville and Milestone Tower Limited Partnership-IV, substantially in the form attached hereto and incorporated herein by reference, for the location of a communication tower and equipment at 300 Goode St; and

BE IT FURTHER RESOLVED that the City Manager, Ken Larking, be, and he is hereby, authorized to execute said lease agreement with Milestone Tower Limited Partnership-IV for the location of a communication tower and equipment at 300 Goode

St. within the confines and constraints of state and federal law and in accordance with the constitution of the Commonwealth of Virginia.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney

REAL PROPERTY DEED OF LEASE AGREEMENT

SITE: City of Danville
300 Goode Street
Danville, VA 24541

THIS REAL PROPERTY DEED OF LEASE AGREEMENT (this "Lease"), made and entered into this ____ day of _____, 2018, by and between the City of Danville, Virginia, body corporate and politic, with an address of 427 Patton Street, Danville, VA 24541, herein referred to as "Lessor," and Milestone Tower Limited Partnership - IV, a Delaware limited partnership, with an address of 12110 Sunset Hills Road, Suite 100, Reston, VA 20190, herein referred to as "Lessee," recites and provides as follows:

RECITALS

1. Lessor is the owner of the parcel of improved real estate located in Danville, Virginia known **as**, City Tax Map Parcel 26555, located at 300 Goode Street, Danville, VA 24541 and described in Exhibit A attached hereto and incorporated herein by reference (the "Site").

2. Lessee intends to construct a free-standing monopole satisfying the requirements of this Lease and all applicable laws (the "Monopole"), and to lease from Lessor land on which Lessee intends to construct an equipment compound as described and shown on Exhibit A attached hereto and made a part hereof for the installation of equipment operated by Lessee or the Carriers (as defined below) on the Site (the "Compound"). Lessee intends to lease space on the Monopole and in the Compound to telecommunications or other wireless communications providers (the "Carriers" and each individually, a "Carrier") in compliance with the terms hereof. Such Carriers may install antennas on the Monopole and construct equipment platforms (each, an "Equipment Platform") to support their communications equipment within the Compound (the Monopole, the Compound, each Equipment Platform and all antennas, dishes, lines, cables and other equipment or items shall collectively be referred to herein as the "Base Station").

3. The parties now desire to set forth the terms pursuant to which Lessor shall lease a portion of the Site to Lessee for the purposes just described.

DEED OF LEASE

NOW, THEREFORE, for and in consideration of the mutual agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows.

1. LEASE OF LEASED PREMISES:

a. Subject to and in accordance with the provisions of this Lease, Lessor hereby leases to Lessee and Lessee hereby leases from Lessor that space within the Site as described and shown on Exhibit A attached hereto and made a part hereof and designated as the "Lease Area"

(the "Lease Area"), which, together with the Appurtenant Easements (defined in Section 2), shall be referred to collectively as the "Leased Premises."

b. Lessee acknowledges that with the exception of the air space over the land actually occupied by the Monopole, the Leased Premises shall include the air rights over the land only to a height which is the lesser of fifteen (15) feet above the ground elevation or the bottom of the bleachers or other structure that is situated above the Leased Premises. Lessor and Lessee acknowledge that the exact location of the Leased Premises is, as of the date of the execution hereof, the parties current intent with respect thereto, however the final location may be subject to modification (in both parties' sole and absolute discretion) based upon Lessee's governmental approval process. Lessee and Lessor therefore each covenant and agree, subject to each party's approval as required in the immediately preceding sentence, to execute an addendum hereto at such time as the final location of the Leased Premises is determined in the event that such location differs from that as set forth on Exhibit A-1. Lessee has inspected the Leased Premises and accepts the same "AS IS" and in its present condition without any representation or warranty of Lessor except any that may be expressly set forth in this Lease.

c. Notwithstanding the foregoing, Lessee acknowledges and agrees that it is solely responsible for performing all necessary due diligence regarding the Site and the Leased Premises, including confirming by way of a title report and examination that Lessor holds legal title to the Site and that no matters affecting title to the Site prohibit, impair or require third party consent to the leasing of the Leased Premises to Lessee, the construction of the improvements contemplated hereunder or any other matter relating or pertaining to this Lease (the "Due Diligence Matters"). In no event shall Lessor have any responsibility for or liability with respect to the Due Diligence Matters, all of which are hereby waived by Lessee. Lessee agrees to strictly comply, at its sole cost and expense, with all recorded documents, instruments and agreements affecting title to the Site, and indemnify and hold harmless Lessor against any cost, expense, claim, demand, obligation, cause of action or liability with respect to any violation thereof by Lessee or its agents or sublessees.

d. Until the termination or expiration hereof, title to the Monopole and the portions of the Base Station owned by Lessee shall remain with Lessee. After the termination or expiration of this Lease, title to the Monopole and/or those portions of the Base Station owned by Lessee that Lessor has required to remain on the Leased Premises shall, at the option of Lessor, vest in Lessor, and Lessee agrees to promptly execute such further assurances thereof as shall be requested by Lessor.

e. It is the intention of Lessor and Lessee that this Lease constitutes an exclusive relationship as it pertains to the construction of telecommunications monopoles and the leasing of space thereon to telecommunications service providers on the Site. Lessor agrees that it shall not, during the term, lease, license or grant any interest in any portion of the Site to any telecommunications or other wireless service provider, or to any party constructing monopoles for lease to telecommunications or wireless service providers, other than Lessee. Lessor and Lessee hereby agree that Lessor shall be permitted to use one (1) platform on the Monopole for any Lessor use at no cost to Lessor; provided that (i) in no event shall any such use of the Monopole by Lessor be for commercial purposes or for LTE antennas, (ii) the vertical envelope of the equipment installed by Lessor shall not exceed ten (10) feet, (iii) the total effective wind

load of Lessor's equipment shall not exceed twenty (20) square feet of effective projected area, (iv) the total weight of Lessor's equipment shall not exceed three hundred (300) pounds and (v) the height of Lessor's equipment on the Monopole shall reasonably agreed upon between Lessor and Lessee and shall be subject to the location of the Carriers and any other regulatory limitations (i.e. limitations set forth by the FAA, FCC and other federal, state or local government authorities having jurisdiction over the Monopole). Notwithstanding the foregoing, Lessor's use of any Monopole and the transmissions from Lessor's equipment at the Site shall not interfere with those of any Approved Carrier on the Site (or under a letter of intent) at the time such use is granted and Lessor's use of the Monopole shall be limited to non-commercial use.

2. EASEMENTS SERVING LEASED PREMISES:

a. Lessor hereby grants to Lessee the easements described below in this Section 2 (such easements collectively, the "Appurtenant Easements") as easements appurtenant to the leasehold granted to Lessee in this Lease. Lessee may assign the use of the Appurtenant Easements to Carriers and utility providers without Lessor's consent; provided that the use of the easements by such utility providers and Carriers shall be limited to providing power, telecommunications and other utilities solely to the Monopole and the Base Station. With the exception of Lessee's grant of use of the Appurtenant Easements to Carriers and utility providers and as expressly set forth herein, the Appurtenant Easements may not be assigned or otherwise transferred in whole or in part separately from the leasehold granted under this Lease, and any such attempted assignment or transfer shall be void.

i. Lessor grants Lessee a nonexclusive, temporary construction easement of varying dimensions over, on, and through adjoining and adjacent portions of the Site, as shown on Exhibit B (Temporary Construction Easement) and identified as the "Temporary Construction Easement", for construction and installation of the Base Station upon the Leased Premises. Such temporary construction easement shall terminate upon the completion of Lessee's construction described in Section 7 provided that such term shall be extended for such period of time as Lessee may be prevented from constructing the Base Station by reason of force majeure, and may be extended for such further period as Lessor in its discretion may agree.

ii. Lessee shall be permitted the non-exclusive use of a right-of-way having the location and width as shown and described on Exhibit B (Utility Easement) hereof as the "Utility Easement," or such other right-of-way of similar dimensions as Lessor may designate during the term of this Lease, to construct, erect, install, operate and maintain underground communication, power, cable, fiber, gas and other utility cables, conduits and systems from the Leased Premises, over, across and through that portion of the Site designated on Exhibit B (Utility Easement).

iii. Lessor hereby agrees to grant to the local utility and telephone companies, on terms acceptable to Lessor in its reasonable discretion, the non-exclusive easements and rights-of-way having the location and width as shown and described on Exhibit B to construct, maintain, operate and repair communication, electric power, cable, fiber, gas and other utility lines, conduits and systems over those portions of the Site designated on Exhibit B (Utility

Easement) hereof and described as the “Utility Easement,” or such other right-of-way of similar dimensions as Lessor may designate during the term of this Lease, and the right-of-way of Lessee provided for in Subsection 2 a(ii) during the term of this Lease for purposes of installation and provision of telephone, gas, fiber and electric service to the Base Station.

iv. Lessor hereby grants Lessee a non-exclusive easement and right-of-way having the location and width as shown and described on Exhibit B for ingress to and egress from the Leased Premises by Lessee and the Carriers, for vehicular traffic for constructing, installing, maintaining, operating and repairing the Base Station, over that portion of the Site designated on Exhibit B (Access Easement) hereof and described as the “Access Easement”, or such other right-of-way of similar width as may be designated by Lessor to provide such access to the Leased Premises and the Base Station. In the event that Lessee damages any grassed area with its service and/or construction vehicular traffic, Lessee will promptly re-sod the disturbed areas.

b. Lessor shall have the right to relocate any of the Appurtenant Easements (provided that there shall be no termination thereof, and no interruption of service or access as a result thereof other than such short term interruption as is necessary to effectuate the physical relocation, provided that Lessor and Lessee shall attempt to ensure that the replacement Appurtenant Easement is in place prior to such relocation such that any such interruption shall be as minimal as reasonably practicable). If such relocation occurs after the installation of utilities or facilities therein, such relocation shall be at Lessor’s expense.

c. With the exception of the temporary construction easement provided for in Section 2 a(i), which may expire sooner as provided in such section, and any utility easements to third-party utility or power companies, which shall expire in accordance with their terms, the term of all Appurtenant Easements shall automatically expire upon termination of this Lease without the need for further act of any party. Notwithstanding the foregoing, if requested by Lessor, Lessee shall execute and deliver to Lessor, in recordable form, such documents as Lessor may request to evidence of record the termination of all Appurtenant Easements as just provided.

3. USE OF LEASED PREMISES:

a. Lessee shall use the Leased Premises solely for construction, operation and leasing of the Base Station as provided herein, and shall use the Appurtenant Easements solely for the applicable purposes described in Section 2. Lessor makes no representation or warranty whether such use is permitted by any laws or regulations applicable to the Leased Premises, and Lessee is solely responsible for determining whether such use is permitted, and for securing all necessary licenses, permits and approvals therefor.

b. Notwithstanding any other provision of this Lease, Lessee acknowledges Lessor’s use of the Site and that Lessee’s rights under this Lease (and, accordingly, any Carrier rights under a Carrier Sublease (as defined below) are subject and subordinate to Lessor’s use and operation of the Site. Accordingly, in exercising their rights under this Lease, Lessee shall use its best efforts to avoid any adverse construction, operational or other such impact on the Site or Lessor’s use and operation thereof, whether such impacts arise from work or activities being

performed or undertaken on or off of the Site (utility outages arising from off-site utility relocation, for example), and, notwithstanding any other provision of this Lease, Lessee will use its best efforts to cause such entry, work or activities to be performed or undertaken at such times, and to occur in such manner, as Lessor may require, in its reasonable discretion, to avoid any adverse impacts to the Site or Lessor's use thereof. Further, Lessee agrees that it will cause each Carrier to comply with the provisions of this Section 3. Pursuant to the provisions of Section 8b, Lessee shall be responsible for repairing all damage to the Base Station, the Leased Premises or the Site caused by Lessee or any of Lessee's employees, contractors or agents. In case of emergencies threatening life or safety or any component of the Base Station, Lessee may enter the Leased Premises without prior notice to Lessor, provided Lessee notifies Lessor of such entry, and the nature of the work performed or undertaken as a result of such emergency, as soon as practicable after Lessee's entry. Notwithstanding the foregoing, Lessee shall have the right to make customary and routine inspections of the Leased Premises upon one (1) business day prior notice, provided that (i) such entry is only for the purpose of inspecting the Leased Premises, conducting routine maintenance and repairs (provided such maintenance and/or repairs do not require alteration of the structural elements to the Base Station or the Monopole or the addition or substitution of any electrical cabinet or equipment shelter) and (ii) the worker or workers who make such inspections check-in with the appropriate personnel at the Site prior to accessing the Leased Premises and, in all cases, follow all procedures required by Site personnel.

c. Understanding that the monopole will have attached baseball field lights, at no time shall any other lights on the site be illuminated as to interfere with the safe play on the field during any scheduled or unscheduled games or practices

4. TERM:

a. The term hereof shall be for an initial term of ten (10) years, with up to five (5) 5-year extension terms, commencing on the date of the final execution and delivery hereof (the "Commencement Date"). The term hereof shall be automatically extended as of the expiration of the then current term unless Lessee provides thirty (30) days advance written notice of its intent not to so renew the term hereof. Lessee may terminate this Lease with sixty (60) days prior notice to Lessor if (i) Lessee is unable to obtain or maintain in force all necessary governmental approvals, (ii) a material change in government regulations makes it impractical or uneconomic for Lessee to continue to operate the Facilities under this Lease, (iii) interference by or to Lessee's operation cannot, despite good faith negotiations between Lessee and Lessor in accordance with the terms hereof, be resolved, (iv) Lessee is unable to lease space within the Base Station for a period in excess of twelve (12) consecutive months, or (v) the Site or the Facilities are destroyed or damaged or taken in whole or in part (by condemnation or otherwise) sufficient in Lessee's reasonable judgment, adversely to affect Lessee's use of the Site. If this Lease is renewed, then all covenants, conditions and terms will remain the same.

b. At the end of the term of this Lease, whether by the passage of time or the exercise by any party of any right of termination, Lessee shall surrender the Leased Premises to Lessor in the condition specified in this Section 4b. Within sixty (60) days after the end of the term of this Lease, Lessor shall notify Lessee of its election to (i) have Lessee dismantle and remove the Base Station, or any component thereof, including, but not limited to, any or all of Lessee's facilities from the Leased Premises and the Site or (ii) have the Monopole and/or Base

Station (other than those portions of the Base Station owned by the Carriers) remain on the Leased Premises. If Lessor fails to make such an election within the sixty (60) day period, Lessee shall inform Lessor in writing, and Lessor shall have an additional thirty (30) days to make the election. If Lessor fails to make an election, it shall be deemed to have elected option (ii). If Lessor elects or is deemed to elect option (i), Lessee shall promptly (and in any event within ninety (90) days) remove the designated facilities from the Site, at Lessee's sole cost and expense; provided, however, that Lessee shall be entitled to leave in place underground cables and any other improvements which are two (2) feet or more below grade. If Lessor elects option (ii), title to the facilities designated by Lessor shall immediately vest in Lessor, without the necessity of further action by Lessor or Lessee. Notwithstanding the foregoing, if so requested by Lessor, Lessee shall execute such further assurances thereof as shall be requested by Lessor. Further, nothing herein contained shall be deemed to prohibit or restrict any Carrier from removing its equipment to the extent permitted to do so under any Carrier Sublease.

c. Subject to Section 4b, the Base Station, including the Monopole, and other equipment, shall during the term of this Lease be deemed the personal property of Lessee and/or the Carriers, as applicable.

5. RENT & ACCESS FEE:

a. Beginning on the Commencement Date, and thereafter on the tenth day of each calendar month during the term and any extension term of this Lease, Lessee shall pay to Lessor, in legal tender of the United States of America without demand, setoff or deduction whatsoever, as monthly rent for the Leased Premises, an amount equal to forty percent (40%) of the Gross Revenues (as defined below) derived from the use, leasing or occupancy of any portion of the Monopole or Base Station for the preceding calendar month. The term "Gross Revenues" shall mean all revenue actually collected by Lessee from Carriers with respect to the Site (other than any reimbursement being made to Lessee by a Carrier in connection with construction of the Base Station, Monopole (including, if necessary, the costs to install a stealth or camouflage Monopole), connection to any utilities, access roads, reimbursement for any site access fee provided that such reimbursement is not in lieu of or in substitution of any rent thereunder), less any real estate ad valorem taxes (which term specifically excludes personal property taxes and taxes on income derived from the Base Station) payable for such period (or the pro rata share thereof applicable to such period) by Lessee on the Leased Premises or the Base Station and less all expenses related to the Facilities, which shall be borne by Milestone. All rental payments shall be made by check payable to Lessor at City of Danville, Virginia, 998 South Boston Rd, Danville, VA 24540 _____, Attention: Division Director, Division Director of Public Works Administration or such other address as Lessor may from time to time provide.

b. In addition to the rent described in the preceding paragraph, any other amounts payable under this Lease to Lessor, however denominated, shall be deemed additional rent, and Lessor shall have all rights and remedies in respect of payment and collection thereof as are applicable to rent.

c. Lessee shall pay Lessor a Site Fee, which is equal to Twenty Thousand and No/100 Dollars (\$20,000.00) (the "Site Fee") payable at the time Lessee begins construction of

the Base Station on the Site. In addition, on the date the second Carrier begins construction on or in the Site, Lessee shall pay Lessor a colocation fee of Five Thousand and No/100 Dollars (\$5,000.00) (the "Colocation Fee"). The Colocation Fee does not apply to the first Carrier on or in the Site (for which no fee shall be due).

6. REAL ESTATE TAXES, UTILITIES, MAINTENANCE:

a. Lessee shall be solely responsible for all costs and expenses relating to the connection, disconnection, consumption and use of any utilities and/or services in connection with Lessee's construction, installation, operation and maintenance of the Base Station on the Leased Premises including, without limitation, any electric consumption by its equipment, and Lessee agrees to pay all costs for service and installation of an electric meter directly to the local utility company.

b. Lessee shall be responsible for the declaration and payment of any applicable taxes or assessments against the Base Station or other equipment owned or used by Lessee or allocable (on a pro rata basis) to the Leased Premises, including but not limited to any sales and property taxes, as well as any taxes based on the rent payable hereunder, including gross receipts taxes. During the term, Lessee shall be responsible for the timely payment of all taxes levied upon the leasehold improvements on the Leased Premises to the extent such taxes are attributable to the use of the Monopole for wireless communication purposes. Lessee shall have the right to contest all taxes, assessments, charges and impositions assessed against the Base Station or other equipment owned or used by Lessee or allocable (on a pro rata basis) to the Leased Premises as well as any taxes based on the rent payable hereunder, as defined without limitation herein, and Lessor agrees to join in such contest and to permit Lessee to proceed with the contest in Lessor's name; provided, however, the expenses associated with any such contest are borne by Lessee and not by Lessor.

c. Lessee shall at all times during the term of this Lease, at its own expense, maintain the Base Station and the Leased Premises in proper operating condition and maintain same in reasonably good condition, and will repair any damage except that caused by Lessor, its agents or servants. Lessee shall keep the Leased Premises and the Base Station free of debris at all times.

d. Lessee shall maintain the Leased Premises at all times in compliance with Lessor's rules and regulations and all governmental rules, regulations and statutes including, without limitation, those relating to the lighting and painting of the Base Station, and requirements of the Federal Communications Commission (the "FCC"), the Federal Aviation Administration (the "FAA"), and other federal, state or local government authorities having jurisdiction over the Base Station.

e. Lessee shall be solely responsible, at its sole cost and expense, for keeping the Monopole at all times in reasonably good order, condition and repair, and in compliance with all applicable laws, ordinances and rules. Lessee shall cause the Monopole to be regularly inspected and preventative maintenance to be performed in accordance with the standards of the industry.

In no event shall Lessor be required to maintain or repair the Monopole, or pay or reimburse Lessee for any costs associated therewith.

f. If applicable, Lessor shall be responsible for the maintenance and repair of any lighting fixtures installed by Lessor (or by Lessee on behalf of Lessor) on the Monopole.

7. CONSTRUCTION BY LESSEE:

a. Lessee shall use good faith and commercially reasonable efforts to obtain all necessary approvals, including, without limitation, those required by the FAA and the FCC, for construction and operation of the Base Station. After obtaining the necessary permits and approvals therefor, Lessee, at its sole cost and expense, shall perform or cause to be performed all of the following work:

i. If applicable, replacing the existing light standard with a Monopole with a height as shown on Exhibit A. Lessee will remove the discarded light standard from the Site and deliver it where directed by Lessor. Lessee shall rehang on the Monopole all equipment installed on the light standard, at the same height or such other height as Lessor and Lessee shall mutually agree.

ii. Installing the utility and equipment compound with dimensions shown and described on Exhibit A attached hereto.

iii. At the request of Lessor at the commencement of the term of this Lease, installing a chain link or wood fence or natural screening on each side and on top of the Compound or any other portion of the Base Station.

iv. Performing or causing to be performed all other improvements and work associated with the work described above that may lawfully be required by the City of Danville or any other governmental body or official having jurisdiction, as part of or in connection with the work described above.

b. Lessee's agreement to perform or cause to be performed at its expense all of the work described above, all at Lessee's cost and expense, shall be construed broadly to provide for all costs and liabilities of such work, whether or not such costs are anticipated and without regard to Lessee's present estimates for the cost of same, so that all of such work is fully and properly performed and paid for by Lessee, and upon completion of same the Site, as altered by such work, is as fully functional and suitable for continued use by Lessor as it was prior to the start of Lessee's work. Accordingly, the phrase "all work" shall include, without limitation, all of the following work, and Lessee's promise to pay for such work shall include, without limitation, all of the costs and liabilities associated with the following all labor and materials; design work; legal and professional fees of Lessee's consultants; permit drawings and materials; construction costs; construction equipment and materials; utilities extension or relocation; provision of protective fencing and other safety measures; maintenance; removal of construction related debris from the Site; liability, property and workers' compensation insurance premiums; bond fees; development and construction permits; inspections and approvals; re-sodding of all disturbed areas not covered with impervious surface; replacement or relocation of landscaping;

re-paving or re-striping of any damaged or disturbed paved areas whether for traffic control, parking or otherwise; and repairs and restoration required as a result of any damage to the Site caused in the prosecution of the work contemplated by this Lease.

c. Lessee shall cause construction of the Base Station (other than components which may be constructed by any future Carrier) to be commenced as soon as practicable after receipt of all necessary permits and approvals and to be completed within a reasonable time thereafter, not to exceed one (1) year from the receipt of all necessary permits and approvals, excepting periods of delay caused by *force majeure* or delays caused by Lessor. Once its work on the Base Station is initiated, Lessee shall diligently and continuously prosecute such work to final completion in a timely manner. Lessee shall limit construction activities to such days and times as Lessor may reasonably require to avoid any material and adverse impacts on the use and operation of the Site. Lessee shall keep Lessor fully apprised of any events that might impact the construction activities. If Lessee fails to perform its work in accordance with this Lease and if such failure threatens the safe, proper and timely conduct of operations or uses of the Site, then Lessor shall have the right to take all measures as it may deem necessary to avoid or abate any interference with such safe, proper and timely conduct of such classes or other operations or uses. Such measures may include, without limitation, engaging additional construction personnel, stopping any construction activities occurring on the Site, removing interfering construction equipment, materials or facilities, and providing alternate or additional drives, sidewalks, parking areas or other facilities. All such measures shall be at the sole cost, expense and liability of Lessee. Lessor shall give Lessee prior notice before commencing any such measures and to coordinate with Lessee in determining the measures that may be necessary. Lessee shall permit Lessor's designated inspector full access to all of Lessee's construction areas and shall provide such inspector access to all construction plans, drawings and other information reasonably requested.

d. The Base Station, and each component thereof constructed by Lessee, shall be constructed by Lessee in a good and workmanlike manner and in accordance with the plans, drawings and specifications prepared and provided by Lessee for Lessor's prior review and written approval, which approval shall not be unreasonably withheld, conditioned or delayed. Construction and installation of the Base Station by Lessee shall be in compliance with all applicable rules and regulations including, without limitation, the customary specifications and requirements of Lessor and those of the Occupational Safety and Health Administration ("OSHA"), the FCC, the FAA, and regulations of any governmental agency (town, county, state or federal) including, but not limited to the applicable requirements of the local planning and zoning and building, electrical, communications and safety codes of the City of Lynchburg, Virginia. Lessee, at its sole cost and expense, shall secure all necessary permits and approvals required to permit the construction and operation of the Base Station. Lessor agrees to cooperate reasonably with Lessee in any necessary applications or submissions required to permit construction and operation of Lessee's Base Station as described herein, provided that Lessor shall be reimbursed for all reasonable and actual expenses incurred in providing such cooperation within thirty (30) days of delivery of an invoice to Lessee, and provided further that obtaining Lessee's permits and approvals shall not result in the imposition of any material restrictions or limitations or adverse impacts on the Site or Lessor's use, operation improvement or redevelopment thereof. All of Lessee's work and facilities shall be installed free of mechanics', materialmen's and other liens, and claims of any person. Lessee agrees to defend,

with counsel approved by Lessor, and to indemnify and save Lessor harmless, from all loss, cost, damage or expense including, without limitation, reasonable attorneys' fees, occasioned by or arising in any connection with the work contemplated by this Lease, and shall bond off or discharge any such liens or other claims within thirty (30) days after written notice from Lessor.

e. Prior to commencing any activities on the Site pursuant to this Lease, Lessee shall provide Lessor with evidence satisfactory to Lessor that Lessee and its contractors and agents who will be working on the Site are covered by insurance as required by Section 14 hereof.

f. Lessee shall, upon Lessor's request, fence and buffer the Base Station and/or the Leased Premises or any portion thereof.

g. Lessee shall restore in compliance with the Federal Americans with Disabilities Act (and any state or local law counterpart or implementation thereof) any of Lessor's facilities physically altered by Lessee's work.

h. Lessee shall be allowed to make further additions, alterations and improvements to the Base Station and Monopole with the Leased Premises without Lessor's prior consent.

8. OPERATION OF BASE STATION:

a. Lessee and the Carriers shall operate the Base Station in strict compliance with all applicable statutes, codes, rules, regulations, standards and requirements of all federal, state and local governmental boards, authorities and agencies including, without limitation, OSHA (including, without limitation, OSHA regulations pertaining to RF radiation), the FCC and the FAA, as well as such reasonable rules and regulations which Lessor may publish for the site from time to time. Lessee has the responsibility of carrying out the terms of its FCC license in all respects, including, without limitation, those relating to supporting structures, lighting requirements and notification to FAA. Lessee, prior to constructing the Base Station, shall have, and shall deliver to Lessor, copies of all required permits, licenses and consents to construct and operate the Base Station. In the event that the operation of the Base Station violates any of the terms or conditions of this Lease, Lessee agrees to suspend operation of the Base Station within twenty-four (24) hours after notice of such violation and not to resume operation of the Base Station until such operation is in strict compliance with all of the requirements of this Lease. Lessee shall be responsible for ensuring that each Carrier complies with the terms of this Section 8.

b. Other than with respect to entries established pursuant to the initial construction of the Base Station and Monopole, prior to any entry upon the Leased Premises, Lessee shall provide not less than **three (3)** business days prior notice to Lessor which notice shall specify the type of work or other activities that are to be performed or undertaken on the Leased Premises or which may impact the Site. Lessor shall have one (1) business day after receipt of the notice to advise Lessee that the proposed work would conflict with Lessor's use of the Site and such notice shall include dates and times that the proposed work may be rescheduled. Lessee further agrees and covenants that the Base Station, transmission lines and appurtenances thereto, and the construction, installation, maintenance, operation and removal thereof, will in no way damage Lessor's property or materially interfere with the use of the Site by Lessor, its successors and

assigns. Notwithstanding the foregoing, Lessee agrees (i) to repair any damage caused to the Site or the Leased Premises, including, but not limited to, any damage to utility lines, drains, waterways, pipes, grass fields or paved surfaces by such installation, construction, maintenance, operation or removal to the condition the Site or the Leased Premises was in immediately prior to such damage, (ii) that any repair work undertaken on the Site or the Leased Premises shall be completed as soon as possible after the occurrence of such damage, (iii) that if Lessee's activities on the Site or the Leased Premises result in the need to restore or replace any grass areas, such areas shall be sodded, rather than seeded, and (iv) that it shall be responsible for the full and timely payment of any costs incurred in connection with the repairs described in clauses (i) through (iii) of this sentence.

c. If, after the execution of this Lease, Lessee is unable to operate the Base Station due to the action of the F.C.C. or by reason of any law, physical calamity, governmental prohibition or other reasons beyond Lessee's control, this Lease may be terminated by Lessee by giving Lessor thirty (30) days' prior notice of termination, subject to Lessee's restoration obligations under Section 4b hereof.

9. PERMITS AND SITE SPECIFICATIONS:

It is understood and agreed by the parties that Lessee's ability to use the Leased Premises is contingent upon its obtaining after execution of this Lease, all of the certificates, permits and other approvals that may be required by federal, state or local authorities for Lessee's use of the Leased Premises as set forth in this Lease. Lessee shall use all reasonable efforts promptly to obtain such certificates, permits and approvals, at Lessee's sole expense. Lessor will cooperate reasonably with Lessee at Lessee's sole cost and expense, in its effort to obtain such approvals. In the event any such applications should be finally rejected or any certificate, permit, license or approval issued to Lessee is canceled, expires or lapses, or is otherwise withdrawn or terminated by governmental authority, or soil boring tests are found to be unsatisfactory so that Lessee will be unable to use the Leased Premises for the purposes set forth herein, Lessee shall have the right to terminate this Lease by giving Lessor thirty (30) days' prior notification of termination within sixty (60) days after the date of the event which is the basis of termination. Upon such termination, the parties shall have no further obligations for charges and liabilities which accrue after the effective date of termination, including the payment of monies, to each other except as otherwise provided herein, but Lessee shall be liable to restore the Leased Premises in accordance with Section 4b.

10. INDEMNIFICATION:

Except as caused by the gross negligence or willful misconduct of Lessor, Lessee shall defend, with counsel acceptable to Lessor, and indemnify and hold harmless, Lessor from all losses, costs, claims, causes of actions, demands and liabilities arising from (a) any breach by Lessee of any covenant of this Lease; (b) any misrepresentation by Lessee contained in this Lease and/or any breach of any warranty contained in this Lease; and (c) any occurrence, of any kind or nature, arising from (i) Lessee's or any Carrier's construction, installation, maintenance, repair, operation, replacement or removal of the Base Station or any other equipment, or any

other activities of Lessee or any Carrier on the Site or the Leased Premises of any kind or nature, (ii) the condition of the Base Station or the Leased Premises and (iii) any personal injury, death, or accident in any way related to Lessee's or any Carrier's use, operation or maintenance of the Leased Premises, the Site, the Base Station, or any equipment or antennas contained therein or on the Monopole or the Leased Premises. Such indemnification shall include the actual, reasonable and documented cost of investigation, all expenses of litigation, and the cost of appeals, including, without limitation, reasonable attorneys' fees and court costs, and shall be applicable to Lessee's and each Carrier's activities on the Site and the Leased Premises whether prior to the Commencement Date or after the termination of this Lease. In addition to Lessor, Lessor's board members, staff, officers, agents, servants, employees, volunteers, business invitees, customers and guests shall be beneficiaries of Lessee's indemnification. Lessee's indemnification shall not be applicable to the extent of any gross negligence or willful misconduct of Lessor.

11. FEASIBILITY:

Prior to the Commencement Date of this Lease, Lessee shall have access to the Leased Premises with no less than 1 business day prior notice to Lessor and at such times as Lessor agrees for the purposes of undertaking necessary tests, studies, and inspections relating to Lessee's proposed use of the Leased Premises. In the event such tests studies, and inspections indicate that Lessee is unable to utilize the Leased Premises for the purpose stated herein, then Lessee may terminate this Lease by giving Lessor ten (10) days' prior notice of termination, in which case Lessee shall restore the Leased Premises and any other portions of the Site that have been damaged, modified or altered by or on behalf of Lessee to their original condition.

12. INTERFERENCE:

a. Lessee agrees to install (and cause the Carriers to install) equipment of a type and frequency which will not cause frequency interference with other forms of radio frequency communications existing on Lessor's property as of the date of this Lease (so long as reasonably prevalent).

b. In the event Lessee's equipment causes such interference, Lessee agrees it will take all steps necessary to correct and eliminate the interference consistent with appropriate government rules and regulations upon receipt of written notification of the interference. Lessee shall be obligated to respond to the problem of interference arising from Lessee's equipment within the Base Station within two (2) business days of receipt of written notice from Lessor and if the interference is not corrected within five (5) business days of receipt of notification (or such time as may reasonably be required with exercise of due diligence provided such repairs are begun within said five (5) business days), such Carrier's equipment causing such interference shall be disconnected, turned off or removed from the Leased Premises.

c. In the event Lessor's equipment at the Site causes frequency interference, Lessee and Lessor agree to cooperate to take all steps necessary to correct and eliminate the interference

consistent with appropriate government rules and regulations upon receipt of written notification of the interference from either party. Lessor shall be obligated to respond to the problem of interference arising from Lessor's equipment at the Site within two (2) business days of receipt of written notice from Lessee. If the interference is not corrected within five (5) business days of receipt of notification (or such time as may reasonably be required with exercise of due diligence provided such repairs are begun within said five (5) business days), then, at Lessor's sole cost and expense, Lessor's equipment causing such interference shall be immediately disconnected, turned off or removed from the Site **unless said equipment is related to or used as a part of the Landlord's obligation to provide emergency service.** Lessee and Lessor understand and agree that in the event its determined that the interference is caused by the unlicensed spectrum being used by Lessor at the time of execution of this Lease, Lessor shall be under no obligation to replace the unlicensed spectrum with a licensed spectrum to correct the interference.

13. DEFAULT:

- a. Each of the following shall be an event of default by Lessee under this Lease:
 - i. If the rent or any installment thereof shall remain unpaid after it becomes due and payable, and is not paid within ten (10) days after Lessor gives written notice of non-payment;
 - ii. If Lessee or its assigns shall fail or neglect to keep and perform any one of the terms of this Lease and such failure or neglect continues for more than thirty (30) days (or such longer period as may be reasonable, provided Lessee is attempting a cure with all due diligence, not to exceed one hundred twenty (120) days plus any period of where cure is prevented by *force majeure*) after Lessor gives written notice specifying the default;
 - iii. If Lessee files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or is dissolved or makes an assignment for the benefit of creditors, or if involuntary proceedings under any bankruptcy laws or insolvency act or for the dissolution of Lessee are instituted against Lessee, or a receiver or trustee is appointed for all or substantially all of Lessee's property, and the proceeding is not dismissed or the receivership or trusteeship is not vacated within sixty (60) days after institution or appointment.
- b. In the case of any event of default, Lessor shall have the right to give Lessee written notice of its intention to terminate this Lease on the date of the notice or on any later date specified in the notice, and, on the date specified in the notice, Lessee's right to possession of the Leased Premises (which term as used in this Section 13 shall be deemed to include the Base Station) will cease and this Lease will be terminated as if the date fixed in the notice were the end of the term of this Lease, together with any additional rights and remedies that may be available at law or in equity.
- c. If Lessor shall fail or neglect to keep and perform each and every one of the covenants, conditions and agreements contained herein, and such failure or neglect is not remedied within thirty (30) days (or such longer period as may reasonably be required to correct

the default with exercise of due diligence not to exceed one hundred twenty (120) days plus any period of where cure is prevented by force majeure), after written notice from Lessee specifying the default, then Lessee may pursue any legal remedies available to Lessee, including the right to terminate this Lease.

d. The foregoing notwithstanding, in the event of any such default by Lessee hereunder, such shall not provide Lessor the right to attach, utilize, distrain upon or otherwise take possession of any equipment located on the Monopole or within a Base Station owned by any Carrier, and such shall at all times be free from any claim by Lessor hereunder.

14. INSURANCE REQUIREMENTS:

a. All property of Lessee, its employees, agents, business invitees, licensees, customers, clients, guests or trespassers, including, without limitation, the Carriers, in and on the Leased Premises shall be and remain at the sole risk of such party, and Lessor shall not be liable to them for any damage to, or loss of such personal property arising from any act of God or any persons, nor from any other reason, nor shall Lessor be liable for the interruption or loss to Lessee's business arising from any of the above described acts or causes. Lessor shall not be liable for any personal injury to Lessee, its employees, agents, business invitees, licensees, customers, clients, students, family members, guests or trespassers, including, without limitation, the Carriers, arising from the use, occupancy and condition of the Leased Premises unless such injury is caused by the gross negligence or willful act or failure to act on the part of Lessor or its employees.

b. During the term, Lessee will maintain a policy of commercial general liability insurance insuring Lessor and Lessee against liability arising out of the use, operation or maintenance of the Leased Premises and the installation, repair, maintenance, operation, replacement and removal of the Base Station. The insurance will be maintained for personal injury and property damage liability, adequate to protect Lessor against liability for injury or death of any person in connection with the use, operation and condition of the Leased Premises, and to insure the performance of Lessee's indemnity set forth in Section 10, in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence/aggregate. During the term, Lessee shall also maintain workers' compensation and employers' liability insurance, and such other insurance relating to the installation, repair, maintenance, operation, replacement and removal of the Base Station, and the ownership, use, occupancy or maintenance of the Leased Premises as Lessor may reasonably require. The limits of the insurance will not limit the liability of Lessee. If Lessee fails to maintain the required insurance Lessor may, but does not have to, maintain the insurance at Lessee's expense. The policy shall expressly provide that it is not subject to invalidation of Lessor's interest by reason of any act or omission on the part of Lessee.

c. Insurance carried by Lessee will be with companies acceptable to Lessor. Lessee will deliver to Lessor certificate and endorsement evidencing the existence and amounts of the insurance. No policy shall be cancelable or subject to reduction of coverage or other modification except after sixty (60) days prior written notice to Lessor. Lessee shall, at least

sixty (60) days prior to the expiration of the policies, furnish Lessor with renewals or “binders” for the policies, or Lessor may order the required insurance and charge the cost to Lessee.

d. Lessee will not knowingly do anything or permit anything to be done or any hazardous condition to exist (“Increased Risk”) which shall invalidate or cause the cancellation of the insurance policies carried by Lessor or Lessee. If Lessee does or permits any Increased Risk which directly causes an increase in the cost of insurance policies, then Lessee shall reimburse Lessor for additional premiums directly attributable to any act, omission or operation of Lessee causing the increase in the premiums. Payment of additional premiums will not excuse Lessee from termination or removing the Increased Risk unless Lessor agrees in writing. Absent agreement, Lessee shall promptly terminate or remove the Increased Risk.

e. Lessor shall be named as an “additional insured” on Lessee’s liability policies.

f. Notwithstanding any provisions herein to the contrary, Lessee waives all rights to recover against Lessor for any loss or damage arising from any cause covered by any insurance required to be carried by Lessee pursuant to this Section 14, or any other insurance actually carried by Lessee. Lessee will request its insurers to issue appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with the Leased Premises.

g. If an “ACCORD” Insurance Certificate form is used by Lessee’s insurance agent, the words, “endeavor to” and “...but failure to mail such notice shall impose no obligation or liability of any kind upon the company” in the “Cancellation” paragraph of the form shall be deleted or crossed out.

h. All insurance required by this Section 14 shall be written by insurers, in such forms, and shall contain such terms, as Lessor may reasonably require.

15. HAZARDOUS MATERIALS:

a. Neither Lessee nor any Carrier shall cause or permit any hazardous or toxic wastes, substances or materials (collectively, “Hazardous Materials”) to be used, generated, stored or disposed of on, under or about, or transported to or from, the Leased Premises (collectively “Hazardous Materials Activities”) without first receiving Lessor’s written consent, which may be withheld for any reason whatsoever and which may be revoked at any time, and then only in compliance (which shall be at Lessee’s sole cost and expense) with all applicable legal requirements and using all necessary and appropriate precautions. Lessee shall indemnify, defend with counsel acceptable to Lessor and hold Lessor harmless from and against any claims, damages, costs and liabilities, including court costs and legal fees, arising out of Lessee’s or Carrier’s Hazardous Materials Activities on, under or about the Leased Premises, regardless of whether or not Lessor has approved Lessee’s Hazardous Materials Activities. For the purposes of this Lease, Hazardous Materials shall include but not be limited to oil, radioactive materials, PCBs, and substances defined as “hazardous substances” or “toxic substances” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601 et seq.; Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq.; and Resources Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq., and those

substances defined as “hazardous wastes” in the regulations adopted and publications promulgated pursuant to said laws. Notwithstanding the foregoing, a list of Hazardous Materials and Hazardous Materials Activities preapproved by Lessor is attached hereto as Exhibit C. Prior to conducting any other Hazardous Materials Activities, Lessee shall update such list as necessary for continued accuracy. Lessee shall also provide Lessor with a copy of any Hazardous Materials inventory statement required by any applicable legal requirements. If Lessee’s activities violate or create a risk of violation of any legal requirements, Lessee shall cease such activities immediately upon notice from Lessor. Lessor, Lessor’s representatives and employees may enter the Leased Premises at any time during the term to inspect Lessee’s compliance herewith, and may disclose any violation of legal requirements to any governmental agency with jurisdiction. The provisions of this Section 15 shall survive termination or expiration of the term of this Lease.

b. Lessor acknowledges that Lessee’s or the Carriers’ equipment cabinets may contain batteries and fuel tanks for back-up power, other sealed batteries, petroleum fuels, engine oil, antifreeze, HVAC refrigerants, fire suppression devices, fluorescent lighting, electrical equipment components and that, provided Lessee’s or such Carrier’s use of same is in compliance with this provision, the presence of such batteries or fuel tanks and other items does not violate this provision and shall not require any further consent from Lessor if such batteries or fuel tanks and other items comply with all laws, regulations and ordinances relating to Hazardous Materials.

c. Lessee will immediately notify Lessor and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports, or notices relating to the condition of the Leased Premises or compliance with environmental laws. Lessee shall promptly cure and have dismissed with prejudice any of those actions and proceedings to the satisfaction of Lessor. Lessee will keep the Leased Premises free of any lien imposed pursuant to any environmental laws.

d. Lessor shall have the right at all reasonable times and from time to time to conduct environmental audits of the Leased Premises, and Lessee shall cooperate in the conduct of those audits. The audits may be conducted by Lessor or a consultant of Lessor’s choosing, and if any Hazardous Materials generated, stored, transported or released by Lessee are detected or if a violation of any of the representations or covenants in this Section 15 is discovered, the fees and expenses of such consultant will be borne by Lessee.

e. If Lessee fails to comply with any of the foregoing representations and covenants, Lessor may cause the removal (or other cleanup acceptable to Lessor) of any Hazardous Materials from the Leased Premises. The costs of removing Hazardous Materials and any other cleanup (including transportation and storage costs) shall be reimbursed by Lessee promptly after Lessor’s demand and will be additional rent under this Lease. Lessee will give Lessor access to the Leased Premises to remove or otherwise clean up any Hazardous Materials. Lessor, however, has no affirmative obligation to remove or otherwise clean-up any Hazardous Materials, and this Lease will not be construed as creating any such obligation.

f. Notwithstanding the foregoing, Lessor represents and warrants that to the best of its knowledge and belief there are no Hazardous Materials on, in or under the Site. Lessor

covenants not to bring onto the Site any Hazardous Materials. Lessor shall indemnify Lessee and hold it harmless against any claims, damages, losses or liabilities (including reasonable attorney's fees) incurred by Lessee and arising from any breach of the foregoing representation and warranty and from the presence or removal of Hazardous Materials.

16. NO PARTNERSHIP:

Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Lessor and Lessee, or to create any other relationship between the parties hereto other than that of lessor and lessee.

17. NOTICES:

All notices, payments, demands and requests hereunder shall be in writing and shall be deemed to have been properly given when mailed by the United States Postal Service by First Class, Registered or Certified Mail, postage prepaid, or by nationally recognized overnight courier, and addressed to Lessor as follows:

City of Danville
998 South Boston Rd
Danville, VA 24540
ATTN: Division Director,
Division Director
of Public Works Administration

with a copy, which will not constitute notice to:

W. Clarke Whitfield, Jr.
City Attorney
P.O. Box 3300
Danville, VA 24543

and to Lessee as follows:

Milestone Communications
12110 Sunset Hills Road, Suite 100
Reston, Virginia 20190
Attn: Leonard Forkas, Jr.

with a copy, which will not constitute notice to:

Cooley LLP
11951 Freedom Drive
Reston, Virginia 20190
Attn: John G. Lavoie, Esquire

or to such other addresses as either of the parties may designate from time to time by giving written notice as herein required.

18. ASSIGNMENT OR SUBLETTING; FINANCING:

a. Lessee may assign this Lease, without Lessor's consent, to any corporation, partnership or other entity which (i) is controlled by, controlling or under common control with Lessee; (ii) shall merge or consolidate with or into Lessee; (iii) shall succeed to all or substantially all the assets, property and business of Lessee; (iv) in which Milestone Communications Management IV, Inc. or Milestone Development, Inc. or a wholly owned

affiliate of Milestone Communications Management IV, Inc. or Milestone Development, Inc. is at all times the general partner, managing member or majority shareholder; or (v) has an adjusted net worth (determined in accordance with generally accepted accounting principles consistently applied) of at least \$100,000,000. In the event of such an assignment or sublease, Lessee shall provide to Lessor at least sixty (60) days before the proposed transfer (a) the name and address of the assignee and (b) a document executed by the assignee by which it acknowledges the assignment and assumption of all of Lessee's obligations hereunder. Lessee may also, without Lessor's consent, sublease or license portions of space on the Monopole and within the Base Station to Carriers in accordance with and subject to the terms and conditions of Section 18c hereof.

b. Lessee may, without Lessor's prior consent, sublease or license space on the Monopole or within the Compound to Carriers under and subject to the terms of this Section 18. Specifically, Lessee shall be entitled to sublease or license space on the Monopole or in the Compound without Lessor's prior approval provided that (a) the Carrier Sublease shall be in a form utilized by Lessee in the ordinary course of Lessee's business, (b) the sublessee is an Approved Carrier (as defined below), (c) no event of default exists hereunder, (d) the term of the Carrier Sublease does not exceed the term of this Lease and (e) Lessee furnishes Lessor and its counsel with a copy of such sublease within thirty (30) days after execution thereof. Otherwise, any lease, sublease, license or other occupancy agreement with respect to any Site shall be in form approved by Lessor, which approval may be given or withheld in Lessor's sole and absolute discretion. As used herein, the term "Approved Carrier" shall mean a telecommunications service provider licensed by the F.C.C. and any other governmental agencies for which approval is needed to conduct such company's business.

c. The termination of this Lease shall automatically terminate all Carrier Subleases; provided, however, that Lessor agrees that, provided that Lessee has complied with the provisions of Section 18 hereof, upon a termination hereof as a result of Lessee's default hereunder, and the failure by any Mortgagee (as defined in Exhibit D attached hereto) to either succeed to Lessee's interest hereunder or to enter into a new lease with Lessor in accordance with the terms of such Exhibit D, Lessor shall provide such Carrier the opportunity to continue such Carrier's occupancy of the Monopole for the unexpired term of the Carrier Sublease (including any renewals) at the same rental rate contained in its Carrier Sublease under terms and conditions required by Lessor in its sole and absolute discretion including, but not limited to, that (i) Carrier is not in default under the Carrier Sublease; (ii) upon request by Lessor, Carrier will provide to Lessor a certified true and correct copy of the Carrier Sublease; (iii) Carrier agrees, in writing, that Lessor shall not be liable for any act or omission of Lessee under the Carrier Sublease; (iv) Carrier executes within thirty days of receipt from Lessor, Lessor's then standard form of license or lease agreement; (v) upon execution of such license or lease agreement, Carrier posts with Lessor a security deposit in the amount of two (2) months' rent under the Carrier Sublease and (vi) Lessor obtains ownership of the Monopole.

d. Lessee shall cause the Carriers to comply with, and not violate, the terms and conditions of this Lease. Lessee shall enforce all of the terms and provisions of any Carrier subleases, licenses or other similar documents (each, a "Carrier Sublease"). Without limiting the generality of the foregoing, Lessee shall exercise any or all of its rights and remedies under the Carrier Subleases immediately if requested to do so by Lessor. Lessee shall, at its sole cost and

expense, perform all obligations of the landlord under the Carrier Subleases. Lessor shall have no liability whatsoever under the Carrier Subleases.

e. Lessee shall have the right to finance the Monopole and Base Station on the terms and conditions as are set forth on Exhibit D attached hereto.

19. ACCESS AND INSPECTIONS:

Lessor shall have full access to the Leased Premises and the Base Station for operating, repairing, removing, installing and otherwise working with communications equipment owned by Lessor or any third party permitted to use the Base Station pursuant to this Lease with the exception of Lessee's or Carriers' equipment and antennas. In addition, Lessee shall allow Lessor, upon prior notification to Lessee and with an escort by an agent of Lessee or without notice in the event of any emergency, to enter the Leased Premises or any part thereof at any reasonable time and in a manner so as not to interfere more than reasonably necessary with Lessee's use of the Base Station, for the purpose of inspecting the Leased Premises. In the event of an emergency whereby Lessor enters the Leased Premises, Lessor shall give notice to Lessee of such entry immediately following such emergency. Lessee shall at all times provide Lessor copies of all keys needed to unlock all of the gates and locks to the fences in the Leased Premises.

20. QUIET ENJOYMENT:

Lessee shall be entitled to use and occupy the Leased Premises during the term hereof for the purposes herein permitted and subject to the terms and conditions herein contained, without molestation or interference by Lessor.

21. DAMAGE AND DESTRUCTION:

a. If the Leased Premises or the Base Station are damaged or destroyed by reason of fire or any other cause, or if damage to the Leased Premises or the Base Station causes damage to portions of the Site or other property of Lessor, Lessee will immediately notify Lessor and will promptly repair or rebuild the Base Station, incidental improvements, and other damage to Lessor's property to its condition immediately prior to such damage, at Lessee's expense.

b. Monthly rent and additional rent will not abate pending the repairs or rebuilding except to the extent to which Lessor receives a net sum as proceeds of any rental insurance, or continues to receive income from Carrier Subleases.

c. If at any time the Leased Premises or Base Station are so damaged by fire or otherwise that the cost of restoration exceeds fifty percent (50%) of the replacement value of the Base Station immediately prior to the damage, Lessee may, within thirty (30) days after such damage, give notice of its election to terminate this Lease and, subject to the further provisions of this Section 21, this Lease will cease on the tenth (10th) day after the delivery of that notice. Monthly rent will be apportioned and paid to the time of termination. If this Lease is so

terminated, Lessee will have no obligation to repair or rebuild. Notwithstanding the foregoing, if Lessee elects to terminate this Lease, Lessee shall be required to comply with the provisions of Section 4b with respect removing and dismantling each component of the Base Station and returning the Leased Premises to the condition stated in such section.

22. CONDEMNATION:

If all or any part of the Leased Premises is taken by eminent domain or sale in lieu thereof, and if said taking or sale renders the Leased Premises unusable for its intended purpose hereunder, then, at Lessor's or Lessee's option, this Lease may be terminated upon sixty (60) days prior written notice to the other party and there will be no further payment of rents except that which may have been due and payable at the time of said taking or sale. In the event of a partial taking or sale and Lessee, subject to mutual agreement with Lessor, wishes to maintain its operation, Lessee may continue to use and occupy the Compound and Leased Premises under the terms and conditions hereunder, provided Lessor's and Lessee's obligations under this Lease are not otherwise altered, and provided Lessee, at its sole cost, restores so much of the Base Station and Leased Premises as remains to a condition substantially suitable for the purposes for which it was used immediately before the taking. Upon the completion of restoration, Lessor shall pay Lessee the lesser of the net award made to Lessor on account of the taking (after deducting from the total award attorneys', appraisers', and other costs incurred in connection with obtaining the award), or Lessee's actual out-of-pocket cost of restoring the Leased Premises, and Lessor shall keep the balance of the net award. In connection with any taking subject to this Section, Lessee may prosecute its own claim, by separate proceedings against the condemning authority for damages legally due to it (such as the loss of fixtures which Lessee was entitled to remove and moving expenses) only so long as Lessee's award does not diminish or otherwise adversely affect Lessor's award.

23. SALE OF SITE:

Any sale by Lessor of all or part of the Leased Premises to a purchaser other than Lessee shall be under and subject to this Lease and Lessee's right hereunder. Lessor shall be released from its obligations under this Lease in the event of a sale and the assignee assumes Lessor's obligations hereunder (including the recognition of Lessee's rights hereunder). Notwithstanding the foregoing, Lessor shall not sell the Site or the portion of the Site that includes the Leased Premises or assign this Lease to any tower company that is in direct competition with Lessee, any ground lease aggregator or any lease buyout company in the business of constructing towers or monopoles, purchasing land on which towers are located or purchasing leasehold interest in property on which towers are located. If Lessor breaches this Section 23, Lessee shall have the right to pursue any and all remedies available to Lessee hereunder or under applicable law including, without limitation, injunctive relief.

24. GOVERNING LAW:

This Agreement and the performance thereof shall be governed by and enforced under the laws of the Commonwealth of Virginia, and if legal action by either party is necessary for or with respect to the enforcement of any or all of the terms and conditions hereof, then exclusive venue therefore shall lie in the City of Danville, Virginia.

25. MISCELLANEOUS:

This Lease plus the Exhibits hereto contain the entire agreement between the parties and may not be amended, altered or otherwise changed except by a subsequent writing signed by the parties to this Lease. The invalidation of any one of the terms or provisions of this Lease by judgment or court order shall in no way affect any of the other terms of this Lease which shall remain in full force and effect. Lessor and Lessee agree to execute any additional documents necessary to further implement the purposes and intent of this Lease. Time is of the essence with respect to each provision of this Lease.

26. BINDING EFFECT:

This Lease shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

27. LESSOR'S RIGHT TO PERFORM:

If Lessee fails to perform any obligations under this Lease, Lessor shall be entitled, but shall not be obligated, to perform any or all of such obligations and any cost of performing same shall be payable by Lessee to Lessor upon written demand as additional rent hereunder. Any amounts so incurred by Lessor and not repaid by Lessee within ten days after demand shall bear interest at a rate of ten percent (10%) per annum.

28. HOLDING OVER:

If Lessee remains in possession of the Leased Premises after the end of this Lease, Lessee will occupy the Leased Premises as a lessee from month to month, subject to all conditions, provisions, and obligations of this Lease in effect on the last day of the term.

29. ESTOPPEL CERTIFICATES:

Within no more than two weeks after written request by either party, the other will execute, acknowledge, and deliver a certificate stating:

- a. that the Lease is unmodified and in full force and effect, or, if this Lease is modified, the way in which it is modified accompanied by a copy of the modification agreement;
- b. the date to which rental and other sums payable under this Lease have been paid;

- c. that no notice has been received of any default which has not been cured, or, if the default has not been cured, what such party intends to do in order to effect the cure, and when it will do so;
- d. (if from Lessee) that Lessee has accepted and occupied the Leased Premises;
- e. (if from Lessee) that Lessee has no claim or offset against Lessor, or, if it does, stating the date of the assignment and assignee (if known to Lessee); and
- f. other factual matters as may be reasonably requested.

Any certificate may be relied upon by any prospective purchaser, lender or other person with a bona fide interest in the Leased Premises.

30. NO WAIVER:

No waiver of any condition or agreement in this Lease by either Lessor or Lessee will imply or constitute a further waiver by such party of the same or any other condition or agreement. No act or thing done by Lessor during the term of this Lease will be deemed an acceptance of surrender of the Leased Premises, and no agreement to accept the surrender will be valid unless in writing signed by Lessor. The delivery of Lessee's keys to Lessor will not constitute a termination of this Lease unless Lessor has entered into a written agreement to that effect. No payment by Lessee, or receipt from Lessor, of a lesser amount than the rent or other charges stipulated in this Lease will be deemed to be anything other than a payment on account of the earliest stipulated rent. No endorsement or statement on any check or any letter accompanying any check or payment as rent will be deemed an accord and satisfaction. Lessor will accept the check for payment without prejudice to Lessor's right to recover the balance of the rent or to pursue any other remedy available to Lessor.

31. AUTHORITY:

Each of the persons executing this Lease on behalf of Lessee warrants to Lessor that Lessee is a duly organized and existing limited partnership under Delaware law, that Lessee is authorized to do business in the Commonwealth of Virginia, that Lessee has full right and authority to enter into this Lease, and that each and every person signing on behalf of Lessee is authorized to do so. Upon Lessor's request, Lessee will provide evidence satisfactory to Lessor confirming these representations.

Lessor and the person executing and delivering this Lease on Lessor's behalf each represents and warrants to Lessee that such person is duly authorized to so act and has the power and authority to enter into this Lease; and that all action required to authorize Lessor and such person to enter into this Lease has been duly taken.

32. LIMITED LIABILITY:

Lessee's sole recourse against Lessor, and any successor to the interest of Lessor in the Leased Premises, is to the interest of Lessor, and any successor, in the Leased Premises. Lessee will not have any right to satisfy any judgment which it may have against Lessor, or any successor, from any other assets of Lessor, or any successor, or from any of Lessor's board members, staff, officers, agents, servants, employees, volunteers, business invitees, customers, or guests. In no event shall Lessor be liable for consequential or punitive damages, economic losses or losses derived from future expected revenues. The provisions of this Section 33 are not intended to limit Lessee's right to seek injunctive relief or specific performance.

33. RECORDATION:

Lessee may record, at Lessee's expense, a memorandum or short form hereof in the form attached hereto as Exhibit E.

34. CONFLICTS:

In the event of any conflict between the terms and provisions of this Lease and any other prior agreement between the parties, this Lease shall control.

35. ENTIRE AGREEMENT

This Lease plus the Exhibits hereto contain the entire agreement between the parties and may not be amended, altered or otherwise changed except by a subsequent writing signed by the parties to this Lease.

[Signatures contained on following page.]

IN WITNESS WHEREOF, the parties hereto executed this Lease in two parts on the dates indicated.

LESSOR:

City of Danville, Virginia, a body corporate and politic

By:_____

Its:_____

Date:_____

[Signatures continue on following page.]

LESSEE:

**MILESTONE TOWER LIMITED PARTNERSHIP –
IV**

**By: MILESTONE COMMUNICATIONS
MANAGEMENT IV, INC.,** its general partner, a
Delaware corporation

By: _____
Leonard Forkas, Jr., President
Date: _____

EXHIBIT A
Description of Site

EXHIBIT A-1

Monopole Location; Description of Leased Premises

EXHIBIT B

Easements

EXHIBIT C

Hazardous Materials

- Lead acid batteries
- Diesel or propane emergency power generator(s) with fuel tank(s)
- Sealed batteries
- Petroleum fuels
- Engine oil
- Antifreeze
- HVAC refrigerants
- Fire suppression devices
- Fluorescent lighting
- Electrical equipment components

EXHIBIT D

Mortgagee Provisions

Equipment Financing.

Lessor acknowledges that Lessee may in the future enter into a financing arrangement including promissory notes and financial and security agreements for the financing of the Monopole and Base Station and that Lessee's tenants, lessees or licensees may have entered into (or may in the future enter into) such financing arrangements for the financing of their equipment installed as part of the Base Station (collectively, the "Collateral"). In connection therewith, Lessor (i) consents to the installation of the Collateral (subject to the terms and provisions of the Lease); and (ii) disclaims any interest in the Collateral, as fixtures or otherwise.

Leasehold Financing.

Notwithstanding anything to the contrary contained in this Lease, at any time and from time to time Lessee may mortgage, pledge and encumber its interests in this Lease and in any subleases, and assign this Lease and any subleases, licenses and other occupancy and use agreements as collateral security for such mortgage(s). The making of a leasehold mortgage (or any other such assignment, pledge or encumbrance) shall not be deemed to constitute a prohibited assignment of this Lease, or of the leasehold estate hereby created, nor cause the holder of the leasehold mortgage (a "Mortgagee") to be deemed an assignee of this Lease. Such Mortgagee (or its nominee) shall be deemed an assignee of this Lease only at such time it succeeds to Lessee's interest in this Lease by foreclosure of any leasehold mortgage, or assignment in lieu of the foreclosure, or if it exercises or attempts to exercise any rights or privileges of Lessee under the Lease. Upon such succession such Mortgagee (or nominee) shall be bound by the terms of this Lease only with respect to obligations first arising after such succession and shall be released and relieved of all further liabilities and obligations under this Lease once it assigns its interest in this Lease. Notwithstanding the foregoing, Mortgagee or such successors shall be liable for all rent due under the Lease, and for curing any breaches or defaults which continue after the Mortgagee or such successor acquire Lessee's interest in this Lease. Notwithstanding anything to the contrary contained in this Lease, any Mortgagee (or other person or entity) that succeeds to Lessee's interest in this Lease by way of foreclosure, assignment in lieu of foreclosure or the exercise of any other remedies relating to the enforcement of any leasehold mortgage may assign this Lease to any telecommunications company with assets in excess of One Hundred Million Dollars (\$100,000,000) and upon such assignment, such assignor shall be released from all further liability under this Lease; provided, however, that the provisions hereof shall become null and void upon such assignment. When used in this Lease, "mortgage" shall include whatever security instruments are used in the locality of the Premises, such as, without limitation, mortgages, deeds of trust, security deeds, and conditional deeds, as well as financing statements, security agreements, and other documentation required pursuant to the Uniform Commercial Code or successor or similar legislation.

If a Mortgagee shall send to Lessor and its counsel a true copy of the leasehold mortgage, together with written notice specifying the name and address of the Mortgagee and the pertinent recording data with respect to such leasehold mortgage, Lessor agrees that the following provisions shall apply to such mortgage so long as the leasehold mortgage has not been released by the Mortgagee:

No Modification/No Merger.

There shall be no cancellation, surrender or modification of this Lease by Lessor and Lessee without the prior consent in writing of each Mortgagee. If the leasehold interest under this Lease shall ever be held by the same person or party who then holds the reversionary interest under this Lease, no merger shall result therefrom and both the leasehold and reversionary interests shall continue.

Notice/Cure.

Lessor shall, upon serving Lessee with any notice of default or other notice provided for in this Lease, simultaneously serve a copy of such notice upon the Mortgagee and no such notice to Lessee shall be effective unless a copy of such notice is so served on the Mortgagee. Upon receipt of such notice the Mortgagee shall have the same period, after and commencing upon receipt of such notice, to elect (in its sole discretion) to remedy or cause to be remedied the defaults complained of, and Lessor shall accept such performance as if the same had been done by Lessee.

Termination.

Upon any termination of this Lease, at the election of the Mortgagee, Lessor will promptly enter into a new lease of the Premises with such Mortgagee or its nominee for the remainder of the term of the Lease, effective as of the date of such termination at the rent and upon the terms, provisions, covenants, and agreements as herein contained, provided:

Such Mortgagee(s) or its nominee(s) shall make written request upon Lessor for such new lease within thirty (30) days after the date of such termination;

Such Mortgagee(s) or its nominee(s) pay to Lessor at the time of the execution and delivery of such new lease any sums that would at the time of the execution and delivery thereof be due pursuant to this Lease but for such default or termination (e.g., excluding all, if any, accelerated rent), less one-half (1/2) of the net income collected and retained by Lessor subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease; and

Upon the execution and delivery of such new lease, all subleases, licenses and other occupancy and use agreements that theretofore may have been assigned and transferred to Lessor shall thereupon be assigned and transferred by Lessor to the Mortgagee or its nominee, and assumed by the Mortgagee or nominee, and such party shall indemnify and hold Lessor harmless from and against any further liability thereunder. Lessor hereby agrees that, with respect to any such sublease so assigned, Lessor will not modify or amend any of the terms or provisions

thereof, during the period between the expiration or termination of this Lease and the execution and delivery of a new lease.

Application of Certain Proceeds.

The Mortgagee may reserve the right to apply to the mortgage debt all or any part of Lessee's share of the proceeds from any insurance policies or arising from a condemnation.

EXHIBIT E

Memorandum of Lease

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is entered into as of the ____ day of _____, 20__, by and between Milestone Tower Limited Partnership - IV, a Delaware limited partnership ("Lessee"), and _____, a _____ ("Lessor").

RECITALS:

A. Lessor and Lessee are parties to a Site Lease Agreement, dated _____, 2018 (the "Lease"), pursuant to which Lessor has leased to Lessee certain real property in Edgecombe County, Virginia described in Exhibit "A" attached hereto.

B. Lessor and Lessee wish to enter into this Memorandum of Lease.

NOW, THEREFORE, in consideration of the premises, the sum of Five Dollars (\$5.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. The name of the lessor under the Lease is the City of Danville, Virginia, a body corporate and politic.

2. The name of the lessee under the Lease is Milestone Tower Limited Partnership – IV.

3. The address of Lessor, as stated in the Lease, is 427 Patton Street, Danville VA, 24541, Attn: Barry Doeberth _____. The address of Lessee, as stated in the Lease, is Milestone Tower Limited Partnership -IV, 12110 Sunset Hills Road, Suite 100, Reston, VA 20190.

4. The leased premises, as described in the Lease, consists of a portion of the property owned by Lessor located at 300 Goode Street, Danville, VA 24541 and as more particularly described on the attached Exhibit A.

5. The term of the Lease is ten (10) years. The date of commencement of the term of the Lease was _____, 2018, and the date of termination of the term of the Lease is ten (10) years thereafter, subject to any applicable renewal period.

6. Provided Lessee is not in default under the Lease beyond any applicable cure period, Lessee may renew the Lease for four (4) five-year renewal periods, to commence at the end of the initial term of the Lease. Accordingly, the latest date to which the term of the Lease may be extended is _____.

(Signatures continue on the following 2 pages)

ATTEST:

**By MILESTONE COMMUNICATIONS
MANAGEMENT IV, INC., a Delaware corporation and
its general partner**

By: _____
Leonard Forkas, Jr., President
Date: _____

COMMONWEALTH OF VIRGINIA)
)**TO WIT:**
COUNTY OF)

I hereby certify that on this ____ day of _____, 2018, before me, a Notary Public for the state and county aforesaid, personally appeared Leonard Forkas, Jr., known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the foregoing instrument, acting in his capacity as President of MILESTONE COMMUNICATIONS MANAGEMENT IV, INC. for the purposes therein set forth.

Notary Public

My Commission Expires: _____

**Exhibit A to
Memorandum of Lease**

(Legal Description)

Council Letter

City of Danville, Virginia



CL-1920

New Business Item #: D.

City Council Regular Meeting

Meeting Date: 07/05/2018

Subject: State Transit Funding for FY19

From: Marc Adelman, Director of Transportation Services

COUNCIL ACTION

Business Meeting: 7/05/2018

SUMMARY

The City of Danville annually receives state operating and capital assistance through the Virginia Department of Rail and Public Transportation for the Danville Transit System. State operating and capital funding levels can vary annually and are approved in June by the Commonwealth Transportation Board.

BACKGROUND

For Fiscal Year 2019, the Virginia Department of Rail and Public Transportation has identified that a total of \$409,316 in state operating aid will be available to the City of Danville to support the Danville Transit's operation. In addition, the State has approved \$16,600 in operating aid through the state's Senior Transportation Assistance Program to support the coordinated service arrangement between the Danville Transit System and Danville Parks and Recreation. The total state operating funding level for Fiscal Year 2019 is \$20,697 more than the state operating allocation provided during Fiscal Year 2018.

The state has also approved matching funds for capital projects that will provide financing to purchase replacement buses, expansion buses to support the regional bus operation, shop equipment and expand the bus parking lot area. The total estimated cost for all capital projects is \$1,107,702 and the Virginia Department of Rail and Public Transportation has approved state capital funding in the amount of \$177,233 and federal capital funding in the amount of \$886,161. Therefore, the anticipated local match requirement is \$44,308 for all capital items. The Transportation Advisory Committee has approved these grant requests and recommends approval by City Council.

RECOMMENDATION

It is recommended that City Council adopt the attached Resolution Authorizing an Application to the Virginia Department of Rail and Public Transportation for Mass Transit Funding for Fiscal Year 2019.

Attachments

Resolution

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018-_____._____

A RESOLUTION AUTHORIZING AN APPLICATION BY THE CITY TO THE VIRGINIA DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION FOR GRANTS FOR OPERATING AND CAPITAL COSTS FOR PUBLIC TRANSPORTATION FOR FISCAL YEAR 2019.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Danville, Virginia that City Manager, Ken Larking, be, and he is hereby, authorized to execute and file on behalf of the City an application to the Virginia Department of Rail and Public Transportation for grants of Transportation Special Revenues, as provided by the General Assembly of Virginia State Aid for Public Transportation, for operating and capital costs of the City for public transportation during Fiscal Year 2017 for which purpose the Council does hereby certify that:

1. The requested funds, if granted, shall be used in accordance with the requirements of Section 58.1-638.(4) of the Code of Virginia.
2. The City of Danville shall provide for the payment of its share of said operating and capital costs as required by such Act.
3. The records of the receipts and expenditures of such funds as are granted to the City of Danville shall be subject to audit by the Virginia Department of Rail and Public Transportation and the Auditor of Public Accounts.
4. The funds granted to the City of Danville to defray its public transportation fuel, tires and maintenance costs, administrative costs and capital costs shall be used by the City only for the purposes authorized by the Acts of the General Assembly of Virginia.
5. That the City Manager, Ken Larking, be and he is hereby, authorized to accept, receive and expend the aforesaid grants of funds in the amount and for the purposes that the same are awarded and to execute such documents as may be necessary therefore and to furnish to the Virginia Department of Rail and Public Transportation such information and documents as it may require with regard to such application and grants.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to Form and
Legal Sufficiency:

City Attorney

Council Letter

City of Danville, Virginia



CL-1921

New Business Item #: E.

City Council Regular Meeting

Meeting Date: 07/05/2018

Subject: FY19 Federal Transit Assistance

From: Marc Adelman, Director of Transportation Services

COUNCIL ACTION

Business Meeting: 7/05/2018

SUMMARY

The Federal Transit Administration provides funding to assist transit systems with financing operating expenses and capital projects. All operating expenses are eligible for federal operating aid except depreciation and interest charges. The Federal Transit Administration will provide financial assistance up to 50 percent of the transit system's operating deficit and provides up to 80 percent of the total cost of capital projects. For small urban and rural transit systems in Virginia, the Virginia Department of Rail and Public Transportation maintains the authority to allocate federal funding for operating and capital assistance.

BACKGROUND

For Fiscal Year 2019, the City of Danville has been allocated \$1,119,736 in federal operating subsidy by the Virginia Department of Rail and Public Transportation. The state has also approved federal matching funds for capital projects that will provide financing to purchase replacement and expansion buses, shop equipment, acquire and install a bus shelter and expand the mass transit maintenance facility parking lot for bus use.

The total estimated cost for all capital projects is \$1,107,702 and the Virginia Department of Rail and Public Transportation has approved a total of \$886,161 in federal aid and \$177,233 in state matching funds for the capital projects. Therefore, the anticipated local match requirement for the capital items is \$44,308. The Transportation Advisory Committee has approved these grant requests and recommends approval by City Council.

RECOMMENDATION

It is recommended that City Council adopt the attached Resolution Authorizing an Application to the Federal Transit Administration for Mass Transit Funding for Fiscal Year 2019.

Attachments

Resolution

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2018-_____._____

A RESOLUTION CONFIRMING AND RATIFYING THE FILING OF AN APPLICATION BY THE CITY TO THE U.S. DEPARTMENT OF TRANSPORTATION FOR A GRANT UNDER THE FEDERAL TRANSIT ACT, AS AMENDED.

WHEREAS, the Secretary of Transportation is authorized to make grants for a mass transportation program of projects and budget; and

WHEREAS, the contract for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local share of the project costs in the program; and

WHEREAS, it is required by the US Department of Transportation in accord with the provisions of Title VI of the Civil Rights Act of 1964, as amended, that the applicant give an assurance that it will comply with Title VI of the Civil Rights Act of 1964 and the US Department of Transportation requirements hereunder; and

WHEREAS, it is the goal of the applicant that disadvantaged business enterprises be utilized to the fullest extent permitted by law, and when possible in connection with this project, and that definite procedures shall be established and administered to ensure that disadvantaged businesses shall have the maximum construction contracts, supplies, equipment contracts, or consultant and other services.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Danville, Virginia that the filing of an application on behalf of the City of Danville with the U.S. Department of Transportation to aid in the financing of planning, capital, and/or operating assistance projects pursuant to Section 5311 of the Federal Transit Act, as amended, be, and the same hereby is confirmed and ratified by the U.S. Department of Transportation effectuating the purpose of Title VI of the Civil Rights Act of 1964 shall be adhered to; and

BE IT FURTHER RESOLVED by the Council of the City of Danville, Virginia that the City Manager, Ken Larking, or his designee be, and he is hereby, authorized and directed to:

1. Furnish such additional information as the U.S. Department of Transportation may require in connection with the application for the program of projects and budget.
2. Set forth and execute affirmative minority business policies in connection with the program of projects and budgets procurement needs to the extent permitted by law.
3. Execute grant agreements on behalf of the City of Danville with the U.S. Department of Transportation for aid in the financing of the planning, capital and/or operating assistance program of projects and budget.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to Form and
Legal Sufficiency:

City Attorney

Council Letter

City of Danville, Virginia



CL-1922

New Business Item #: F.

City Council Regular Meeting

Meeting Date: 07/05/2018

Subject: Appropriation of Funds for Regional Buses

From: Marc Adelman, Director of Transportation Services

COUNCIL ACTION

First Reading: 7/05/2018

Final Adoption: 7/17/2018

SUMMARY

The Southern Virginia Higher Education Center located in South Boston, Virginia recently partnered with the Virginia Department of Rail and Public Transportation to conduct a transit feasibility study for an eleven county area in Virginia that was completed by an outside consultant firm in May 2017. The study recommended that regional transportation service should initially be provided for two corridors that maintain the greatest demand including the U.S. Route 29 corridor and the U.S. Route 58 corridor. Additional findings by the consultant firm suggested that the Danville Transit System would be the optimal provider to offer service along these corridors.

Grant funding has been awarded by the Tobacco Commission to the Southern Virginia Higher Education Center to finance the local capital and operating costs for regional bus service. In addition, the Virginia Department of Rail and Public Transportation has recommended federal and state capital funding for three buses that would be used to provide service to Pittsylvania and Halifax Counties.

BACKGROUND

In December 2017 Danville City Council approved a Resolution to authorize the City of Danville to make application for grant funding to expand bus service to Halifax and Pittsylvania Counties. In January 2018, the Southern Virginia Higher Education Center was awarded a Tobacco Commission grant to finance related local operating and capital cost requirements for a three year period. In addition, this spring the Virginia Department of Rail and Public Transportation approved Danville's grant request for three buses to support regional bus operations.

The total estimated cost for the three, 14 passenger buses is \$336,702 and federal aid will finance 80 percent of the cost of the buses or \$269,361, and the state will finance 16% of the total cost at \$53,873. Therefore, the local matching share requirement for the buses is four percent (4%) or \$13,468. This amount will be financed through the Southern Virginia Higher Education Center's Tobacco Commission grant. Bus delivery is estimated to take approximately 11 months. It is anticipated that the service would begin shortly after the buses are available for service, which is expected by the summer or early fall of 2019.

Detailed service planning activities have been underway over the past few months. A focal point of the planning efforts is to develop a regional bus operation that is flexible and convenient for prospective

customers which also supports a variety of transportation needs including work, medical, education and shopping trips.

RECOMMENDATION

It is recommended that City Council adopt the accompanying Ordinance providing federal and state capital funds to acquire buses to support regional bus service to Halifax and Pittsylvania Counties, and the required local share to be provided by the Southern Virginia Higher Education Center.

Attachments

Ordinance

Southern Virginia Higher Education letter

Tobacco Commission grant

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018 - _____ - _____

AN ORDINANCE AMENDING THE FISCAL YEAR 2019 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR FEDERAL AND STATE TRANSIT CAPITAL ASSISTANCE FUNDS RELATED TO THE PROVISION OF REGIONAL BUS SERVICE BY THE DANVILLE TRANSIT SYSTEM TO HALIFAX AND PITTSYLVANIA COUNTIES.

WHEREAS, a Southern Virginia Transit Feasibility study was completed in May 2017 and recommended two route corridors for possible transit service consideration to Halifax and Pittsylvania Counties; and

WHEREAS, the Halifax and Pittsylvania County Board of Supervisors support receiving bus service from the City of Danville to reduce barriers to education and employment; and

WHEREAS, the Southern Virginia Higher Education Center has agreed to provide the necessary local funding to finance operating and capital costs to receive bus service; and

WHEREAS, the City of Danville maintains an established transit system that could expand bus service to Halifax and Pittsylvania counties; and

WHEREAS, the City of Danville would serve as the grantee to provide regional bus service to Halifax and Pittsylvania counties; and

WHEREAS, the City of Danville's Fiscal Year 2019 capital grant application was approved by the Virginia Department of Rail and Public Transportation for federal and state aid to acquire three buses to support expanded service to Halifax and Pittsylvania County.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia, that the Fiscal Year 2019 Budget Appropriation Ordinance be, and it is hereby, amended by increasing revenues from the Commonwealth of Virginia, Virginia Department of Rail and Public Transportation for federal capital aid in the amount of

\$269,361, state aid in the amount of \$53,873 and for the local share of \$13,468 for an aggregate amount of \$336,702 for the purpose of acquiring three buses to support regional bus service to Halifax and Pittsylvania Counties such funds to be appropriated as follows:

ANTICIPATED REVENUES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Acquisition of buses for regional bus service		
Federal Capital Aid	5626210-48340	\$269,361
State Capital Aid	5626210-47640	\$53,873
Southern VA Higher Education Center	5626210-46060	<u>\$13,468</u>
	TOTAL	<u>\$336,702</u>

ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Motor Vehicles Equipment	5626210-57575	<u>\$336,702</u>

AND BE IT FURTHER ORDAINED that all other accounts and provisions of the Fiscal Year 2019 Budget Appropriation Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney



SVHEC

Opportunity
Lives Here.

Dr. Betty Adams
EXECUTIVE
DIRECTOR

bettyadams@svhec.org
434.572.5551

June 4, 2018

Ken Larking, City Manager
City of Danville
P.O. Box 3300
Danville, VA 24543

Dear Mr. Larking:

I am writing to confirm that on January 9, 2018, the Tobacco Region Revitalization Commission (TRRC) awarded the SVHEC a grant in the amount of \$317,490 to support the regional transportation partnership between Danville Transit and the Counties of Halifax and Pittsylvania.

Funds from TRRC Grant #3356, Southern Virginia Regional Transportation Project, are to be used to cover locality matches and other costs associated with the new regional routes being established and served by Danville Transit.

Please forward all applicable invoices to Mrs. Brenda Terry, SVHEC Chief Finance & Operations Officer, at 820 Bruce Street, South Boston, Virginia.

In closing, please know how grateful we are to you, Marc Adelman, and the City of Danville for being cooperative and willing partners in this project. I have enjoyed and look forward to our continued progress.

Sincerely,

Betty H. Adams, Ed.D, MBA
Executive Director
Southern Virginia Higher Education Center

Attachment: TRRC #3356 Award Letter

cc: Clarke Whitfield
Marc Adelman
Jim Halasz
Greg Sides
Brenda Terry

GRANT AGREEMENT

This Grant Agreement (this "Agreement") made and entered into 9th day of January, 2018 (the "Award Date"), by and between the **Tobacco Region Revitalization Commission**, a body corporate and political subdivision of the Commonwealth of Virginia (the "Commission"), and **Southern Virginia Higher Education Center**. (the "Grantee").

WITNESSETH:

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

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

WHEREAS, the Commission, in reliance upon the information set forth in the Application, has determined that the Project benefits the Region and is consistent with and in furtherance of the Commission's public purposes and approved a grant to the Grantee in the amount of **\$317,490.00** (the "Grant") to fund the Project, the approval and funding of such Grant the Commission has determined constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the Grant, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Final Report. The Grantee shall provide a final financial and narrative report to the Commission upon submission of the final payment request. The final report shall contain the type of information contained in the annual reports, including a narrative as to the success of the Project and a description of the long-term achievements and expectations for the Project. The Commission may withhold disbursement of the final payment until receipt of a final report that is in all respects satisfactory to the Commission. After the completion of the Project and expiration of this Agreement, the Commission may in its sole discretion require additional reporting on the long-term achievements and expectations of the Project.

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

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

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

(b) require the Grantee to take whatever action at law or in equity the Commission may direct in order to recover any Grant funds not used for the actual payment of costs related to the Project and consistent with the Project Budget, and comply with any

procedures that the Commission may direct in order to prevent further improper use of the Grant;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

become unavailable and the Commission is unable to obtain sufficient funds, this Agreement shall be amended or terminated, as appropriate.

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

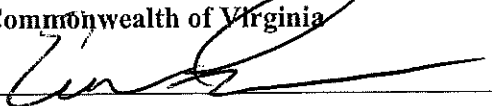
21. Survival. The rights and remedies available to the Commission shall survive any expiration or termination of this Agreement, including but not limited to, Sections 4, 7, 9, 10 and 21.

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

[Remainder of this page intentionally left blank.]

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

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

Signature of Executive Director: 

Printed Name of Executive Director: Evan Feinman

Date: 6-4-18

Southern Virginia Higher Education Center

Signature of Grantee's Chief Executive: 

Printed Name of Chief Executive: BETTY H. ADAMS

Date: 05/25/2018

Grantee Information:

Address 820 Bruce Street, South Boston, VA 24592

Phone # 434 572 5440 e-mail bettyadams@svhec.org Federal ID # 14-1931584

Project Description

Understanding that lack of transportation is a critical barrier to employment and education, SVHEC partnered with DRPT to conduct a feasibility study for a regional transportation system. The study identified several high-demand routes to link existing transportation systems, but suggested starting on a smaller scale to demonstrate sustainability. SVHEC will engage Danville Transit Authority (DTA) to serve two new bus routes, Danville-South Boston and Danville-Gretna, which were among those identified as having greatest demand (projections of 14,500 passenger trips annually between them). DTA will pursue federal 5311 funds and a DRPT Demonstration Grant for part of the capital and operating funds to start and operate the new routes. The balance would normally come from the localities. SVHEC requests \$317,490 to provide Halifax and Pittsylvania's share during the project period, allowing time to build the expense into their budgets. This project is a model for future transportation linkages across the region.

Project Budget

TICRC Grant Application Budget Worksheet

Rev 3/14/14

1. Financial Information: Sources of Funds

a. Requested TICRC Funds: Enter a Description and Budget Line Item Amounts in the blue highlighted boxes below. *Please include specific, detailed budget narrative as an additional attachment in your application.*

Requested TICRC Fund Details								
1. Description (Enter a brief description of how the TICRC funds will be used)	Southern Virginia Transportation Project							
2. Budget Line Item	Personal Services	Contractual Services	Supplies & Materials	Continuous Charges	Property & Improvements	Equipment	Plant & Improvements	Transfer Payments
3. Budget Line Item Amount (Enter the amount of funds allocated to each budget line)		\$317,490.00						
4. Total Amount (Self Totalling)								\$317,490.00

b. Other Funding: Enter Source Information, Status, Description and Budget Line Item Amounts in the blue highlighted boxes below. Select funding type and status from the dropdown menus in the blue highlighted boxes where indicated. *Please include specific, detailed budget narrative as an additional attachment in your application.*

Matching Funds Detail								
1. Funding Type (Select the type of matching funds from the dropdown list)	Federal							
2. Agency/Locality Name (Enter the name the source of the matching funds)	Federal Transit Administration							
3. Status (Select the status of the matching funds from the dropdown list)	Application Intended							
4. Description (Enter a brief description of how the matching funds will be used)	Danville Transit Authority will submit application for 5311 funds in January 2018.							
5. Budget Line Item Description	Personal Services	Contractual Services	Supplies & Materials	Continuous Charges	Property & Improvements	Equipment	Plant & Improvements	Transfer Payments
6. Budget Line Item Amount (Enter the amount of funds allocated to each budget line)		\$502,671.00						
7. Total Amount (Self Totalling)								\$502,671.00

Matching Funds Detail								
1. Funding Type (Select the type of matching funds from the dropdown list)	State							
2. Agency/Locality Name (Enter the name the source of the matching funds)	Department of Public Rural Transit (DPRT)							
3. Status (Select the status of the matching funds from the dropdown list)	Application Intended							
4. Description (Enter a brief description of how the matching funds will be used)	A demonstration grant will be submitted to DPRT in January 2018.							
5. Budget Line Item Description	Personal Services	Contractual Services	Supplies & Materials	Continuous Charges	Property & Improvements	Equipment	Plant & Improvements	Transfer Payments
6. Budget Line Item Amount (Enter the amount of funds allocated to each budget line)		\$216,275.00						
7. Total Amount (Self Totalling)								\$216,275.00

Matching Funds Detail								
1. Funding Type (Select the type of matching funds from the dropdown list)	Private							
2. Agency/Locality Name (Enter the name the source of the matching funds)	Transit Fares							
3. Status (Select the status of the matching funds from the dropdown list)	Application Intended							
4. Description (Enter a brief description of how the matching funds will be used)	These transit fares are paid by the riders on the bus. This number is determined by the Feasibility study estimate adjusted by Danville Transit Authority based on their experience and the agreed upon fee per ride.							
5. Budget Line Item Description	Personal Services	Contractual Services	Supplies & Materials	Continuous Charges	Property & Improvements	Equipment	Plant & Improvements	Transfer Payments
6. Budget Line Item Amount (Enter the amount of funds allocated to each budget line)		\$72,576.00						
7. Total Amount (Self Totalling)								\$72,576.00

2. Financial Information: Budgeted Expenditures

You do not need to enter any information in this section. The table below is self calculating based on the information entered in section 1 (Financial Information: Sources of Funds). Please fill in the blue highlighted fields in section 1 to populate the table below. The amounts from the "TICRC Funds" column and the "Total Matching Funds Column" should correspond to the amounts entered in the grant application.

Proposed Project Budget								
	TICRC Funds	State	Local	Federal	Private	In-Kind	Total Matching Funds	Grand Total
Personal Services (Salaries, Wages, Benefits, etc.)								
Contractual Services (A&E, Legal, Printing, Media, Travel, Training, etc.)	\$317,490.00	\$216,275.00		\$502,671.00	\$72,576.00		\$791,522.00	\$1,109,012.00
Supplies & Materials (Engineering Supplies, Building & Mechanical Repair, Supplies, Educational Supplies, etc.)								
Continuous Charges (Insurance, Lease Payments, Utilities, etc.)								
Property & Improvements (Land Acquisition, Site Development, etc.)								
Equipment (Computers, Phones, Furniture, Fixtures, Manufacturing Equipment, etc.)								
Plant & Improvements (Building Acquisition, Construction/Renovation, etc.)								
Transfer Payments (Scholarships, Incentives, etc.)								
Total Costs:	\$317,490.00	\$216,275.00		\$502,671.00	\$72,576.00		\$791,522.00	\$1,109,012.00

Grant Conditions

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

Council Letter

City of Danville, Virginia



CL-1923

New Business Item #: G.

City Council Regular Meeting

Meeting Date: 07/05/2018

Subject: DCPS Gang Prevention Coordinator Grant

From: Ken F. Larking, City Manager

COUNCIL ACTION

First Reading: 07/05/2018

Final Adoption: 07/17/2018

SUMMARY

The City of Danville was awarded a \$73,200 grant from the Department of Criminal Justice Services (DCJS) to pay for the initial set-up of an office and salary for a Gang Prevention Coordinator position. This funding source will expire on September 30, 2018. It is anticipated that additional funding will be available after that date through a new grant.

BACKGROUND

In January 2017, the City of Danville's Gang Task Force adopted the Office of Juvenile Justice and Delinquency Prevention's Comprehensive Gang Model. For the ensuing months, the City, with the help of the Virginia Attorney General's Office, conducted an assessment of crime patterns throughout the City. The data collected will be used to develop a strategic plan for effectively implementing the OJJDP Comprehensive Gang Model. The DCJS is funding the cost of a coordinator position, establishment of the Danville Crime Prevention Office and the necessary supplies and equipment. The City of Danville plans to seek additional grant funds to pay for the ongoing expenses related to maintaining the office.

RECOMMENDATION

Staff recommends approval of acceptance of the \$73,200 grant award from the Department of Criminal Justice Services and establishing a budget for same. It is also recommended that City Council approve the attached ordinance appropriating \$73,200 for Salary, benefits, and other expenditures for the Gang Prevention Coordinator Grant.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2018-_____._____

AN ORDINANCE AMENDING THE FISCAL YEAR 2019 BUDGET APPROPRIATION ORDINANCE BY INCREASING REVENUE FOR A DEPARTMENT OF CRIMINAL JUSTICE SERVICES, COMMONWEALTH OF VIRGINIA, OFFICE OF THE ATTORNEY GENERAL GRANT FOR ESTABLISHMENT OF THE DANVILLE CRIME PREVENTION TO BE USED TO FUND THE GANG PREVENTION COORDINATOR.

WHEREAS the Commonwealth of Virginia, Office of the Attorney General (OAG) has received an grant award from the Department of Criminal Justice Services (DCJS) for implementation of the Danville Crime Reduction Office by the City of Danville in the amount of \$73,200; and

WHEREAS the Office of the Attorney General will provide \$73,200 in grant funds on a reimbursement basis to the City of Danville to fund a Gang Prevention Coordinator with the responsibility to implement the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Comprehensive Gang Model in Danville; and

WHEREAS the funding will be used pay the annual salary and benefits, travel and training, equipment, and supplies of a Gang Prevention Coordinator; and

WHEREAS the City will seek additional, grant funds as well as funding from other sources.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia that the Fiscal Year 2019 Budget Appropriation Ordinance be, and the same is hereby, amended by increasing revenues to anticipate the receipt of funds in the amount of \$73,200 from the OAG / DCJS Program grant award:

ANTICIPATED REVENUE

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Danville Gang Prevention Federal Revenue	61437000-48230	<u>\$73,200</u>

ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Danville Gang Prevention		
FT Salaries	61437000-51100	\$57,070
FICA	61437000-51450	4,365
Retirement	61437000-51525	4,565
Furniture/Fixtures	61437000-57525	<u>7,200</u>
	TOTAL	<u>\$73,200</u>

AND BE IT FURTHER ORDAINED that this appropriation shall be a continuing appropriation and shall carry forward from year to year until expended for the purpose for which appropriated; and

BE IT FURTHER ORDAINED that this appropriation shall be a flexible budget for Federal, State, and other grant funding; and

BE IT FURTHER ORDAINED that all other accounts and provisions of the Fiscal Year 2019 Budget Appropriation Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney