

**Work Session Agenda
Staunton City Council
Rita S. Wilson Council Chambers
January 28, 2021
5:00 p.m.**

- | | | |
|------------------|-----------|---|
| 5:00 p.m. | | Mayor's Introductory Remarks |
| 5:05 p.m. | 1. | Consideration of Work Session and Regular Meeting Agendas |
| 5:10 p.m. | 2. | Presentation of Report and Recommendations of Gypsy Hill Golf Course Ad-Hoc Citizen Advisory Committee |
| 5:55 p.m. | | Break |
| 6:15 p.m. | 3. | Presentation on Middle River Regional Jail Expansion Project |
| 7:15 p.m. | | Break |

**Regular Meeting Agenda
Staunton City Council
Rita S. Wilson Council Chambers
January 28, 2021
7:30 p.m.**

Call to Order

Pledge of Allegiance

Invocation/Moment of Silence—Mead

Mayor's Report

Additional Items by Members of Council

REGULAR MEETING

A. Consent Agenda

A.1. Application for FY2020 Assistance to Firefighters Grant

A.2. Application for Virginia Economic Development Partnership Grant through the Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund for The Arcadia Project

All items will be voted on in one (1) motion. If so requested by any member of Council, an item placed on the consent agenda shall be removed and taken up as a separate matter.

B. Discussion, Public Hearing and Consideration of Ordinance Authorizing a Third Extension of a 5-Year Lease Agreement with New Cingular Wireless PCS, LLC, for Wireless Communications Equipment*

C. Discussion and Consideration of Substantial Amendment to the FY2019 Annual Action Plan to Allocate Additional U.S. Department of Housing and Urban Development CDBG-CV Funds Awarded Under the FY2020 CARES Act and Amend the FY2019 Annual Plan to Reallocate CDBG Funds

D. Presentation of Quarterly Financial Report

E. Discussion and Consideration of an Uncodified Emergency Ordinance Regarding Additional Conditions for Use of Electronic Communications in Meetings of City Public Bodies

Matters from the City Manager

Matters from the Public*

Closed Meeting for Discussion of Prospective Candidates for Interim City Attorney

Consideration of Appointment of Interim City Attorney

Adjournment

***To participate in the Public Hearing and Matters from the Public portions of the City Council meeting:**

- Dial toll free number: **(844) 854-2222**
- When prompted, enter the access code for the meeting: **619358#**
- You will hear the automated word "Muted"
- At that point, you will have been added to the queue to share your comments with Council
- While you are in the queue, you will hear the audio feed of the meeting
- When you hear the automated word "Unmuted," share your comments with Council
- Participants are reminded that the Public Hearing and Matters from the Public portions of the meeting are a time for Council simply to listen to your comments
- **While you are in the queue, mute the television, computer or other device on which you are listening to the meeting.**

In addition, through 5:00 p.m. on Friday, January 29, 2021, the public may also communicate comments to City Council by (i) emailing the Clerk of Council at publiccomment@ci.staunton.va.us, or (ii) calling the Clerk of Council at 540.332.3810. Voice mail messages are acceptable. A comment sent by email or voice mail must include full name and street address for the comment to be included in the public record.

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 28, 2021	City Council
Item #	1	
Ordinance #		
Department:	City Council	
Council Vision:	Responsive, Efficient Government	
Subject:	Work Session and Regular Meeting Agendas	

Background: Consistent with Procedural Memorandum No. 3, attached are draft meeting agendas for City Council's consideration and for approval as Council prefers.

Suggested Motion: I move to approve the Work Session agenda and the Regular Meeting agenda [as presented] [with the following changes: as to the Work Session, the addition/deletion of _____; as to the Regular Session, the addition/deletion of _____].

City Manager: Steven L. Rosenberg

**Work Session Agenda
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Rita S. Wilson Council Chambers
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CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 28, 2021	Steve Rosenberg City Manager Chris Tuttle Parks and Recreation Director
Item #	2	
Ordinance #		
Department:	City Manager's Office Parks and Recreation	
Council Vision:	Culture Responsive, Efficient Government	
Subject:	Report and Recommendations of Gypsy Hill Golf Course Ad-Hoc Citizen Advisory Committee	

Background: At the direction of City Council, City Manager Steve Rosenberg established the Gypsy Hill Golf Course Ad-Hoc Citizen Advisory Committee on September 18, 2020. Between October 13, 2020 and January 19, 2021, the committee met to consider the improvement of Gypsy Hill Golf Course.

The advisory committee issued its report and recommendations to the City Manager earlier this month and is now prepared to present them to City Council. Walt Obenschain, chair of the committee, will make the presentation to at its work session on January 28, 2021.

Attachments:

Attachment 1— Letter dated September 18, 2020, establishing committee and appointing committee members

Attachment 2— Report and Recommendations from the Gypsy Hill Golf Course Ad-Hoc Committee to the Staunton City Manager

City Manager's Recommendation: Receive the report and recommendations and provide guidance and direction to staff.

Suggested Motion: Not applicable.

City Manager: Steven L. Rosenberg

September 18, 2020

Ms. Jessie Bartley
Mr. Adam Gutterman
Mr. Kendrick Kier
Ms. Cherie Moran
Mr. Bob Mortensen

Mr. Walt Obenschain
Ms. Doris Scott
Ms. Wanda Stevens
Mr. David Tibbs
Mr. Mason Wyatt

Re: Gypsy Hill Golf Course Ad-Hoc Citizen Advisory Committee

Ladies and Gentlemen:

As you know, I am establishing an ad-hoc citizen advisory committee to provide recommendations to the City of Staunton for the improvement of Gypsy Hill Golf Course. The committee's establishment is consistent with direction provided to me by Staunton City Council.

I understand each of you has been contacted concerning the establishment of the committee and has expressed a willingness to serve if appointed to it. By this letter, I am pleased to appoint you to the committee. At my request, Chris Tuttle, the city's director of parks and recreation, will staff the committee.

The committee's work should include the preparation of a report to me containing recommendations to be considered by the city. It is my hope the report, which I will review, can be finalized for a presentation to City Council to be scheduled during the first quarter of calendar year 2021.

The organizational meeting of the committee will be held on Tuesday, October 13, 2020, from 5:00 p.m. to 6:00 p.m., on Zoom. A meeting invitation with a Zoom link will be sent to you separately. If you will be unable to attend, please contact Mr. Tuttle at tuttlecj@ci.staunton.va.us.

Thank you in advance for your contribution to this important project.

Sincerely,



Steven L. Rosenberg
City Manager

September 18, 2020

Page 2

cc: The Honorable Mayor and Members of Council
Leslie Beauregard, Assistant City Manager
Chris Tuttle, Director of Parks and Recreation

**Report and Recommendations
from the Gypsy Hill Golf Course Ad-Hoc Committee
to the Staunton City Manager
January 28, 2021**

Our Mission

The Committee was tasked by the Staunton City Manager to provide recommendations and ideas to make the Gypsy Hill Golf Course as desirable, playable, enjoyable, competitive, and welcoming in an effort to reestablish the golf course as a financially viable part of the Staunton Recreation Department now and into the future.

Course History

The original nine-hole golf course was established in 1919 and designed by Gene Ham. The second nine holes were added in 1968. The main improvement completed since 1968 was the installation of an irrigation system installed in 2008. The course is a par 71 and located within Gypsy Hill Park and open to the public year-round weather permitting. The Gypsy Hill Golf Course has been described as having a challenging layout with slightly undulating greens and lots of elevation changes. The original clubhouse was located near a sheep barn however in 1958, a new \$18,000 building was dedicated which remains in use today. The course is reported to be among the oldest in the Shenandoah Valley and is still the least expensive.

In 1942, N. L. Deaver took over the course and became a legend in the area until his retirement in 1979. In partnership with the Staunton Jaycees, he began the first Junior Golf Program in the area. He also developed the local high school golf program winning a number of District, Regional, and State championships along the way. The local Elks Club began sponsoring the N.L. Deaver Tournament in 1990 which provided a college scholarship for a Staunton High School Senior. It was not only based on golfing ability but also academics, leadership, and integrity.

After Deaver's retirement, Ronnie Gerringer became the Pro followed by Dave Gooden. In 1996, Wes Allred, who learned the game and played on the local high school team for Deaver, took over the professional duties and supervision of the golf facility. He remains at the helm today. As an aside, he owns the course record having carded a 61 from the championship tees.

Why Play Golf

Golf is one of the few sports you can really enjoy and play over a lifetime. It is a fact 90% of golf is played on public or semi-public course and has an undeserved bad name as an idle pastime of the leisure class. Instead, it should be and is seen as contributing to one's physical health and mental wellness, which in turn, provides unique social opportunities for building relationships and revealing a playing partner's character.

Besides being fun and rewarding, you are constantly challenged while striving to improve your game. You can compete with anyone despite differing abilities, you can practice anywhere and everywhere, and you play as many or few holes as you want. Golf is hard and unlike team sports, you play against yourself as you strive to improve and better your own previous scores. After all, who would hit 85 bad shots and one good shot and feel reaffirmed you are capable of greatness. And what other sport allows you to play with several generations

of relatives or friends as well as sons or daughters? Golfers have often commented facetiously that a bad day on the course is better than a good day at work.

Immediate Needs

The Committee has held five meetings as of 1-5-2021. Many, many ideas and suggestions have been discussed all of which deserve some merit but with the understanding all could not be addressed immediately. As a result, they have been broken down into several phases as follows:

Phase I

- **Carts:** The Committee is recommending the purchase of 55 new golf carts at a purchase price of approximately \$4,400 each less the trade-in value of an old cart, worth approximately \$1,200. Carts are usually turned over between 5 and 7 years and the current cart fleet of 33 (or less on many days) average 20 years. Cart rental is currently \$13.00 for 18 holes and the operational cost of a round is \$1.25. This means a cart returns \$11.75 profit for a single or \$23.50 if two people are riding which is usually the case. All of the revenue generated by green and cart fees are collected for city coffers. The question becomes why would 55 carts be needed. The answer is with an adequate number of operable carts, larger tournaments could be hosted, members and walk-ons would not be turned away due to lack of carts, which in turn results in lost revenue. With more carts available, there would be a renewed interest in company league play, member-member or member-guest tournaments, city employee teams, and a resumption of a traveling senior team which, in turn, invites other senior association teams to our course. There are currently 10 tournaments scheduled for 2021 but more and larger State and National Tournaments, who have indicated an interest, could be marketed and played as well. These profitable tournaments bring in outside golfers who stay in local hotels and eat in local restaurants over a weekend or multiple weekends in some instances.
- **Fees:** In an all-out effort to attract or retain current, new, and future members to the course, a new fee structure is being recommended as follows:

Member Fees:

- Adult Membership Fee \$300.00
(Note this would be a promotional fee proposed to end on 12-31-2021. The fee would be guaranteed at this rate for 5 years with no obligation to renew. It is recommended the cart fee increase from \$13.00 to \$15.00. After 5 years, there should be enough data to make any price adjustments.)
- All-inclusive Member Plan \$1200.00
- Junior Membership Fee (age 13-18) \$100.00

Non-Member Fees:

- M-Th 18-holes (green fees & cart) \$ 30.00
- M-Th 9-holes (green fees & cart) \$ 20.00
- M-Th 18-holes (walking) \$ 15.00
- M-Th after 2 P.M. 18 holes (green fees & cart) \$ 20.00
- M-Th after 2 P.M. 9 holes (green fees & cart) \$ 15.00

○ M-Th after 2.P.M. 9 holes (walking)	\$ 10.00
○ M-Th after 5 P.M. (green fees & cart)	\$ 15.00
○ M-Th after 5 P.M. (walking)	\$ 10.00
○ Fri-Sun 18-holes (green fees & cart)	\$ 35.00
○ Fri-Sun 9-holes (green fees & cart)	\$ 20.00
○ Fri-Sun 18-holes (walking)	\$ 15.00
○ Fri-Sun after 2 P.M. 18 holes (green fees & cart)	\$ 25.00
○ Fri-Sun after 2 P.M. 9 holes (green fees & cart)	\$ 20.00
○ Fri-Sun after 2 P.M. 9 holes (walking)	\$ 10.00
○ Fri-Sun after 5 P.M. (green fees & cart)	\$ 15.00
○ Fri-Sun after 5 P.M. (walking)	\$ 10.00
○ Youth 12 and under-with a paying adult	Free
<u>VSGA-limit to 4 plays annually:</u>	
○ M-Th after 10 A.M.	\$ 20.00
○ Fri-Sun after 10 A.M.	\$ 25.00

There has been considerable and positive interest in golfers ready to become members under the new plan. A goal of 100 adult members is recommended.

- Programs:** In the past, there have been enough members to support a Men's and Women's Golf Associations. The players would do well to reintroduce these groups once membership is increased. Hopefully, a new push to bring females back to the game will be reborn. An introduction to golf and golf lessons, targeted for females and which were planned before the pandemic, is recommended. Nine-hole events followed by a picnic have proven to be a good way to get the whole family to participate. Mother-daughter, father-son, or family tournaments are fun for the whole family.
 Currently, the First Tee of the Shenandoah Valley is well into the planning stages at Gypsy Hill. The First Tee is an international youth development organization introducing the game of golf and its inherent value to young people. Through after school and in school programs, they help shape the lives of young people from all walks of life by reinforcing values like integrity, respect, and perseverance through the game of golf.
- Point of Sale:** The Committee recommends the purchase of a computer program that captures all data relative to member's frequency of play, time of day, cart used, etc. The program (cost approximately \$1800) would also enable staff to determine the day and/or times when play is sluggish in order to know further when to set league days/times, profit vs. loss projections, and perhaps to advertise specials to keep the course busy on those off times via blast e-mails. This system would be able to track the geographic locations of the golfers who come from outside Staunton clarifying just what community is the most frequent user of the course.
- Maintenance:** Besides the cost of the course professional, there are three full-time park maintenance workers from May to October. They perform other departmental needs if or when the course is not operating. The pro shop also has two part-time employees and a few volunteers. Since these maintenance salaries make up a large portion of

operating expenses (63%), closing the course would not eliminate these positions or this expenditure.

Phase II & III

There have been a number of suggestions and ideas which Committee members have offered to increase course playability and overall appeal. These are in no particular order and have not been assigned a timeframe or cost, if any.

- Tree branch trimming and selective removal of trees.
- Reworking several of the forward tee boxes and signage.
- Placement of fairway yardage markers.
- Placement of a nine-hole Par 3 course within the existing tract.
- Improving/replacing cart paths.
- Setting up practice areas for driving and chipping.
- Remodeling the clubhouse to include new furnishings.
- Locker room improvements and re-opening of showers.
- An improved area where golfers can socialize before and after play.
- Food and beverage options in both the clubhouse and on the course.
- Advertising and fund-raising opportunities.
- Mitigate terrain constraints by leveling out areas around the greens to make them more receptive.

In Conclusion

This Committee was presented with a unique and vitally important opportunity to explore ways to keep an historical golf course not only still operating but also improving both physically and fiscally. There is no denying revenue vs. expense ratio over a period of years has been abysmal however the numbers in 2020 rebounded significantly. The pandemic was indeed a contributing factor however it also proved there were a lot of golfers rediscovering the game. We are convinced if we are willing to invest in a quality product then this momentum will continue. Golf in general is seeing a resurgence and if pandemic predictions hold true, golf may very well become the sport of the future. If we address our current needs then we should be in a position to take advantage of this community and recreational amenity for another 100 years and beyond.

The group making this presentation has invested their time and effort in trying to discover the most judicious ways to keep the Gypsy Hill Golf Course alive and open so as not to be a continuing burden to the tax paying citizens. The members involved in this presentation are: Jesse Bartley, Doris Scott, Cheri Moran (since resigned), Wanda Stevens, David Tibbs, Walter Obenschain, Adam Gutterman, Mason Wyatt, Robert Mortensen and Kendrick Kier (who elected not to serve). The Committee was capably assisted by Wes Allred (course pro), James Corbett (Superintendent of Recreation) and Chris Tuttle (Director of Parks and Recreation).

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 28, 2021	Jeffery Newton Superintendent Middle River Regional Jail Steve Rosenberg City Manager Phil Trayer Chief Finance Officer
Item #	3	
Ordinance #		
Department:	City Manager’s Office Finance	
Council Vision:	Responsive, Efficient Government	
Subject:	Presentation on Middle River Regional Jail Expansion Project	

Background: For well over a year, staff and the board of Middle River Regional Jail Authority (MRRJA) have been reviewing the need for renovation and additional capacity of the regional jail. The inmate population has grown significantly since the jail opened in 2006, which has driven increases in the number of employees, services provided and MRRJA's overall budget (and the City's contribution to it).

MRRJA procured the services of Moseley Architects to develop a Community Based Corrections Plan (CBCP), with two components: a Needs Assessment and Planning Study. The purpose of the Needs Assessment is to ascertain whether there is a need to expand the facility. The purpose of the Planning Study is to develop a proposed expansion to meet the need identified in the Needs Assessment.

In December 2019, the MRRJA board approved the completed CBCP, which can be accessed at <https://www.middleriverregionaljail.org/post/mrrj-community-based-corrections-plan>. The CBCP, as approved, includes a 400-bed expansion of the facility. The board approval came with the express understanding that the scope of the project could be reduced at a later date, even subsequent to approval of the CBCP by the Commonwealth of Virginia. With board

approval, in the same month, MRRJA staff submitted the approved CBCP to the Virginia Department of Corrections and the Virginia Board of Local and Regional Jails. In September 2020, the Virginia Board of Local and Regional Jails approved the CBCP, as submitted, making the expansion eligible for state funding of 25% of the cost of the project. Authority staff is presently engaged in an effort to secure such funding in the state budget.

On February 2, 2021, at a meeting of the MRRJA board, it is expected that the board will consider final action on the scope of the expansion project. It is presently anticipated that the scope of the project will be less than that included in the approved CBCP, and at a reduced cost. Elements under final consideration include:

- renovation of core facilities;
- expansion of medical, food service, laundry and administration areas of the jail;
- addition of mental health beds to assist in meeting inmate population needs;
- addition of community corrections and/or minimum security beds; and
- addition of warehouse space for storage of supplies purchased in bulk and maintenance building expansion.

Related increases in staffing, in part funded by the Commonwealth of Virginia Compensation Board, are also under consideration.

Once the scope of the project is determined by the MRRJA board and funding is secured from the state, MRRJA will finalize the design, engage bond counsel and work with a financial advisor to structure financing for the project. MRRJA must also separately obtain the consent of the governing bodies of four of the five member localities (i.e., counties of Augusta and Rockingham and cities of Harrisonburg, Staunton and Waynesboro), as required by section 3.1 of the attached Middle River Regional Jail Authority Service Agreement

During Council's work session on January 28, 2021, Jeffery Newton, Superintendent of Middle River Regional Jail, will brief Council concerning the project. Additional presentation materials will be provided on the date of the meeting.

Attachment:

Middle River Regional Jail Authority Service Agreement

City Manager's Recommendation: Not applicable.

Suggested Motion: Not applicable.

City Manager: Steven L. Rosenberg

**MIDDLE RIVER REGIONAL JAIL
AUTHORITY SERVICE AGREEMENT
As amended effective July 1, 2015**

This amended Service Agreement for the MIDDLE RIVER REGIONAL JAIL AUTHORITY (the "Authority"), superseding the service agreement which was previously adopted as of June 25, 2001, and amended and readopted as of June 12, 2003, (the "Original Service Agreement") is made as of July 1, 2015, by and among the Authority, the County of Augusta, the City of Staunton and the City of Waynesboro (the "Original Member Jurisdictions") and the County of Rockingham and the City of Harrisonburg (the "Additional Member Jurisdictions"), all of which jurisdictions are political subdivisions of the Commonwealth of Virginia.

RECITALS

WHEREAS, in the Original Service Agreement, the Original Member Jurisdictions created the Authority, and provided for the financing, construction, equipping, operation and maintenance of the Middle River Regional Jail (the "Jail"); and

WHEREAS, pursuant to the Original Service Agreement, the Authority completed the Jail and has operated it successfully for the benefit of the Original Member Jurisdictions since its opening in April 2006; and

WHEREAS, from time to time the Authority has housed prisoners for the Additional Member Jurisdictions for a per diem rental fee; and

WHEREAS, the Additional Member Jurisdictions have an ongoing need for more jail space, and after extensive investigation and discussion have determined that securing permanent space at the Jail is more advantageous to them than expanding or replacing their existing local

jail facilities, and they have accordingly asked to become full participating Member Jurisdictions in the Authority; and

WHEREAS, the Authority and the Original Member Jurisdictions have agreed upon the terms and conditions under which they will accept the Additional Member Jurisdictions as members of the Authority, and intend by this document to replace and supersede the Original Service Agreement with this Service Agreement of 2015; now, therefore, the Original Service Agreement is replaced and superseded by this Service Agreement of 2015 (this “Agreement”) pursuant to and in the manner hereinafter set forth.

ARTICLE I

Definitions

The capitalized terms of this Agreement have the meanings set forth below.

“Annual Budget” has the meaning given to such term in Section 4.7.

“Applicable Laws” means all applicable laws, ordinances, judgments, decrees, injunctions, writs and orders of any court, arbitrator or governmental agency or authority and all rules, regulations, orders, interpretations, licenses and permits of any federal, state, county, municipal, regional, foreign or other governmental body, instrumentality, agency or authority.

“Authority” means the Middle River Regional Jail Authority.

“Authority Default” has the meaning given to such term in Section 9.1.

“Bonds” means revenue bonds or notes issued or notes issued by the Authority for the design, construction and other costs of the Jail, and shall include any bonds or notes issued to refund such revenue bonds or notes..

“Capital Expenditures” means amounts included in the Authority’s annual budget for maintenance, repair, leasing or purchase of capital facilities, equipment or other items, excluding Debt Service, that are classified as capital under generally accepted governmental accounting principles, but that are not funded through the issuance of Bonds.

“Client Jurisdiction” means any political subdivision of the Commonwealth of Virginia not a member of the Authority, any agency of the federal government, or the District of Columbia.

“Debt Service” means scheduled payments of principal and interest and other reasonable or necessary payments required to comply with debt service coverage requirements, including any debt service reserve fund, imposed in connection with any Bonds or Notes, as set forth in Section 5.1 (B) of Article V of this Agreement.

“Fiscal Year” means the annual accounting period from July 1 of one year to June 30 of the following year.

“Jail” means the Middle River Regional Jail, as constructed and equipped by the Authority together with any additions or improvements thereto.

“Member Jurisdictions” means the County of Augusta, the City of Staunton, the City of Waynesboro, the City of Harrisonburg and the County of Rockingham, each a political subdivision of the Commonwealth of Virginia, and any other political subdivision joining the Authority as provided in Section 6.6 but excluding any political subdivision that may have withdrawn from the Authority, as provided in Section 6.7.

“Net Operating Expenses” means Operating Expenses reduced by an amount equal to revenue from: (i) Client Jurisdictions (ii) Operating Expenses of the Authority reimbursed by the Commonwealth of Virginia; and (iii) all other non-Member revenue.

“Notes” means revenue and/or bond anticipation notes issued by the Authority.

“Obligations” means the Notes or Bonds issued or refinanced by the Authority.

“Operating Expenses” means all expenses which may reasonably be determined by the Authority to be attributable directly or indirectly to the ownership or operation of the Jail and payable as operating expenses in accordance with generally accepted accounting principles, as well as any Capital Expenditures, not including Debt Service.

“Operating Reserve Fund” means the reserve fund established in Section 5.3.

“Placed in Service” means the first day on which the Jail was certified by the appropriate authority of the Commonwealth of Virginia to accept prisoners.

“Prisoner(s)” has the meaning given to such term in Section 4.1.

ARTICLE II

Creation of Authority

Section 2.1 – Regional Jail Authority. The Original Member Jurisdictions have previously established a regional jail authority pursuant to the Resolution to create the Middle River Regional Jail Authority for the County of Augusta, City of Staunton and City of Waynesboro, Virginia, adopted in 2001. Concurrently with their adoption of this Agreement, the Original Member Jurisdictions and the Additional Member Jurisdictions each shall adopt a resolution reflecting the inclusion of the Additional Members in the Authority.

Section 2.2 – Board. The powers of the Authority shall be exercised by a Board (the “Board”) consisting of three representatives from each of the Original and Additional Member Jurisdictions. The principal representatives of each Member Jurisdiction shall be (1) its sheriff (except for the City of Harrisonburg, which shall be represented by its chief of police), (2) its county administrator or city manager; and (3) its chief financial officer. The terms of the sheriffs

shall coincide with the terms for which they have been elected, or in the case of persons appointed to fill vacancies in the office of Sheriff, until a new sheriff is elected. The terms of the other representatives shall be concurrent with their employment with their respective Member Jurisdictions. The sheriffs and the Member Jurisdictions may appoint alternate members to the Board. The Board shall establish bylaws governing the election of officers, the scheduling of meetings and notice therefor, and other procedural matters.

Section 2.3 – Jail Authority. The Authority shall have all powers as set forth in Section 53.1-95.2 *et seq.* of the Code of Virginia, as amended, as well as all other powers contained in the Code of Virginia applicable to regional jail authorities.

Section 2.4 – Appointment of Superintendent. The Authority shall appoint a superintendent of the Jail.

Section 2.5 – Duties of Superintendent. The Superintendent shall have the same control and authority over the prisoners committed or transferred to the Jail as the sheriffs of the Commonwealth of Virginia have over the prisoners committed or transferred to their jails. The Superintendent shall have all the powers and duties set forth in Section 53.1-95.8 of the Code of Virginia, as amended.

ARTICLE III

Jail

Section 3.1 – Expansion of Jail.- The Authority agrees not to physically expand the Jail or incur additional Obligations without the consent of the governing bodies of at least four-fifths of the Member Jurisdictions.

Section 3.2 – Permits. The Authority will construct any improvement or expansion of the Jail in accordance with the requirements of all Applicable Laws. The Member Jurisdictions agree to provide reasonable assistance to the Authority in complying with any such requirements, and will provide the Authority with any and all information that may be necessary in this regard.

ARTICLE IV

Provision of Services, Operation and Maintenance

Section 4.1 – Acceptance of Prisoners. The Authority will accept Prisoners from each Member Jurisdiction and to the extent space is available, from Client Jurisdictions, including the federal government and its agencies by contract agreement who have been: (i) duly arrested for committing a criminal offense and held over pending trial; or (ii) duly convicted of committing a criminal offense and sentenced to a term of incarceration by a court having proper jurisdiction (the “Prisoner”).

The Authority shall be responsible for housing Prisoners from the Member Jurisdictions in accordance with this Article. Prisoners of Member Jurisdictions shall be given a preference over those from jurisdictions of non-members, including the Commonwealth of Virginia, any other state, the District of Columbia, and the Federal government and its agencies. If the Authority determines that it must house prisoners from Member Jurisdiction in a location other than Middle River Regional Jail, the Member Jurisdictions shall pay the same amounts to the Authority as if the prisoner was housed by the Authority provided, however, that the Additional Members shall not pay the Authority for any prisoners housed in the Rockingham-Harrisonburg Regional Jail

Section 4.2 – Commitment of Prisoners. Until final payment of all debt incurred by the Authority for the construction of the Jail or any expansion thereof, each Original Member Jurisdiction agrees to commit all of its Prisoners to the custody of the Authority. Beginning July 1, 2015, the Additional Member Jurisdictions together agree to commit to the Jail a combined minimum of 150 Prisoners, and may commit additional prisoners if they choose to do so. In the event that the Jail is filled in part by nonmember jurisdictions, state or Federal prisoners, the Authority shall establish procedures to receive and commit prisoners from Member Jurisdictions in the Jail, or other appropriate jail(s).

Section 4.3 – Transportation of Prisoners. Unless the Authority agrees otherwise, each Member Jurisdiction shall be responsible for the initial transportation of Prisoners from such jurisdiction to the Jail for processing into the Jail population. Thereafter, the Authority shall be responsible for transporting Prisoners to and from the Jail and for all costs, expenses and security related to such Prisoners during transportation.

Section 4.4 – Operation and Maintenance. The Authority will operate and maintain the Jail in accordance with all Applicable Laws. The Authority shall be an equal opportunity employer.

Section 4.5 – Insurance. The Authority will maintain hazard, liability, or such other insurance as may be required by Applicable Law or which the Authority may deem advisable.

Section 4.6 – Annual Report. The Authority will provide to each Member Jurisdiction on or before each October 1 a report showing the activities and the revenues, expenditures, and employee compensation schedules and other similar data of the Authority for the preceding Fiscal Year and a copy of the Authority's audited financial statements

Section 4.7 – Annual Budget. The Authority will provide to each Member Jurisdiction on or before each February 1 the Authority’s preliminary Annual Budget for the next Fiscal Year, and not later than June 30, shall adopt its final Annual Budget for the next Fiscal Year. For each Fiscal Year during which the Jail will be in operation, such Annual Budget shall set forth the Net Operating Expenses to be funded by payments from the Member Jurisdictions and the percentage of such Net Operating Expenses to be paid by each Member Jurisdiction, determined as provided in Section 5.1(A), as well as the percentage of Debt Service to be paid by each Member Jurisdiction during such Fiscal Year, determined as provided in Section 5.1(B). The Authority will promptly provide copies of any amendments to its Annual Budget to each Member Jurisdiction.

Section 4.8– Books and Records. The Authority will maintain financial records and accounts kept in accordance with generally accepted accounting principles for governmental bodies, consistently applied, of all of its business and affairs. All records and documents in the Authority’s possession shall at all reasonable times be open to inspection by such agents or employees of the Member Jurisdictions as they may designate.

Section 4.9 – Majority Required for Authority Decisions. All decisions of the Board shall be determined by a majority vote of the Board unless otherwise noted within this Agreement.

ARTICLE V

Payments

Section 5.1 – Payments from Member Jurisdictions.

A. Payments for Budgeted Net Operating Expenses.

(1) Beginning with the 2015-2016 Fiscal Year, the calculation of the respective shares of the Net Operating Expenses to be paid by the Member Jurisdictions shall be computed utilizing the total usage of the Jail by the Original Member Jurisdictions during the preceding three calendar years, plus an assumed combined total annual average of 150 Prisoners per day for the Additional Member Jurisdictions during each of the preceding three calendar years, The Additional Member Jurisdictions are each responsible for 50% of the assessment applicable to the Additional Member Jurisdictions' share. The Member Jurisdictions shall pay their respective annual shares of budgeted Net Operating Expenses, based on their respective percentages of the total usage of the Jail during the preceding three calendar years, as provided in this paragraph, calculated to the nearest one-tenth of one percent. For the 2016-2017 and 2017-2018 Fiscal Years, the Additional Member Jurisdictions' combined share of usage shall be calculated using known actual usage and assumed daily usage of 150 prisoners for the years or year in which actual usage is not available. After the first three fiscal years following the date of this agreement, Member Jurisdictions' annual Fiscal Year share of Net Operating Expenses shall be based on their respective percentages of total Member Jurisdiction usage during the preceding three calendar years, calculated to the nearest one-tenth of one percent, with the usage from Harrisonburg and Rockingham combined into one total and the Net Operating Costs assessed 50% to each based upon the combined total usage. Payments made by a Member Jurisdiction that are not based entirely upon actual usage shall be contingent upon and subject to appropriation by the governing body of such Member Jurisdiction.

(2) Each Member Jurisdiction's allocation of budgeted Net Operating Expenses shall be invoiced quarterly by the Authority and shall be payable not later than the last day of the first month of each quarter. The Member Jurisdictions agree to pay their ratable share of the Net

Operating Expenses as budgeted by the Authority in accordance with the percentages based on the preceding three years' usage, established annually pursuant this Section.

(3) The percentages to be paid by the Member Jurisdictions under the preceding calculations shall at no time equal in the aggregate less than one hundred percent (100%) of the Net Operating Expenses for the fiscal year in question. The Authority agrees to adjust its budget if necessary during any fiscal year to reflect unanticipated increases in expenses or revenue shortfalls that alter Net Operating Expenses, and to adjust its charges to the Member Jurisdictions accordingly. The Authority may allocate reserve funds in excess of the amount required in Section 5.3 to purchase one-time items, capital items or to reduce operating expenditures.

(4) If any Member Jurisdiction fails to pay any invoice for charges specified in Section 5.1(A) and (B) within 15 days after its due date, any such Member Jurisdiction agrees to pay a penalty service charge equal to 50% of the amount due for such quarter. Thereafter, such Member Jurisdiction shall be billed (and shall pay) monthly in accordance with the preceding sentence until it pays its arrearages hereunder, at which time such Member Jurisdiction shall again be billed, and shall make payments, in accordance with Section 5.1(A) and (B). In addition, the Authority shall have the right to refuse acceptance of Prisoners from any Member Jurisdiction that is more than 60 days delinquent in payment of the Authority's invoices for either Net Operating Expenses or Debt Service.

B. Payments for Debt Service.

(1) As of July 1, 2015, the Authority's outstanding bonded indebtedness will be \$22,905,000. Beginning with the 2015-2016 Fiscal Year, the calculation of the respective shares of the Debt Service to be paid by the Member Jurisdictions shall be computed utilizing the total

usage of the Jail by the Original Member Jurisdictions during the preceding three calendar years, plus an assumed combined total annual average of 250 Prisoners per day for the Additional Member Jurisdictions during each of the preceding three calendar years, The Additional Member Jurisdictions are each responsible for 50% of the assessment applicable to the Additional Member Jurisdiction's share. The Member Jurisdictions shall pay their respective annual shares of budgeted Debt Service, based on their respective percentages of the total usage of the Jail during the preceding three calendar years, as provided in this paragraph, calculated to the nearest one-tenth of one percent. For the 2016-2017 and 2017-2018 Fiscal Years, the Additional Member Jurisdictions' combined share of usage shall be calculated using known actual usage and assumed daily usage of 250 prisoners for the years or year in which actual usage is not available. After the first three fiscal years following the date of this agreement, Member Jurisdictions' annual Fiscal Year share of Debt Service shall be based on their respective percentages of total Member Jurisdiction usage during the preceding three calendar years, calculated to the nearest one-tenth of one percent, with the usage from Harrisonburg and Rockingham combined into one total and the Debt Service cost assessed 50% to each based upon the combined total usage. Each Member Jurisdiction's allocation of Debt Service payments shall be invoiced quarterly by the Authority and shall be payable not later than the last day of the first month of each quarter.

(2) If the Authority lacks sufficient funds to pay scheduled Debt Service on the Bonds and Notes, or to pay any debt service reserve funding requirements, the Authority will promptly notify the Member Jurisdictions of the amount of such insufficiency. Upon such notification, the Member Jurisdictions each agree to pay, subject to the conditions contained in this paragraph, a portion of such based on the calculation prescribed in paragraph (1) this Section 5.1(B). Any

such payment under this paragraph that is not based entirely on actual usage will be subject to the appropriation of funds by the governing body of each Member Jurisdiction and shall constitute a moral non-binding payment obligation. The obligations of the Member Jurisdictions under this paragraph shall expire only upon the payment of the Bonds and Notes or such earlier date provided therefor, if any, in the documents under which the bonds and notes are issued. In no event shall the obligation of any Member Jurisdiction under this subsection (B) be deemed to constitute a debt within the meaning of the Constitution of Virginia.

Section 5.2 – Payments from Other Jurisdictions. Within the limits allowed by law, the Authority shall establish a per diem charge or charges for the care, maintenance and subsistence of Prisoners from Client Jurisdictions, including from the Commonwealth of Virginia, federal government, District of Columbia and other states or localities. Such charges shall be due and payable to the Authority from Client Jurisdictions having Prisoners in the Jail no later than 30 days from receipt of any statement of charges, and if not paid when due shall bear interest at such rate as the Authority shall establish until paid; provided, however, that this provision shall not apply in instances where Applicable Law prescribes some other due date or late payment charge.

Section 5.3 – Operating Reserve Fund. The Authority agrees to provide for an Operating Reserve Fund in each of its Annual Budgets in an amount equal to not less than 60 days of its projected Annual Operating Budget for each year less debt service. The Operating Reserve Fund will be established as a separate account and will be used to cover periods of revenue shortfall if the Authority's revenues are not sufficient to cover its Net Operating Expenses.

Section 5.4 – Limitation of Liability. The only obligation of the Member Jurisdictions to pay for the establishment, operation, maintenance or expansion of the Jail arises out of this Agreement. No such payment responsibility shall constitute a debt of any Member Jurisdiction within the meaning of any constitutional or statutory limitation.

ARTICLE VI

Additional Agreements

Section 6.1 – Sale or Other Conveyance. The Authority will not sell, lease, sublease, assign, convey or otherwise voluntarily dispose of the Jail unless the Notes, Bonds and any other debt incurred by the Authority have been or will be paid or deemed defeased in accordance with the agreements pursuant to which they were issued. Nothing herein shall be derived to prohibit leasing or subleasing portions of the facility to Member Jurisdictions or other entities as deemed appropriate. By a separate Agreement, the Buy-In Agreement among the Member Jurisdictions, which is attached hereto as Exhibit A, the Original Member Jurisdictions have agreed to an installment sale of 36.7% of their interest in the Jail and other assets of the Authority to the Additional Member Jurisdictions, for a total principal payment of \$21,543,588.00, ten percent of which shall be payable before June 30, 2015, and the balance of which shall be payable according to the schedule included with Exhibit A. In the event of a default in their obligation to make such payments by the Additional Member Jurisdictions and, upon certification of such by the three Original Member Jurisdictions, the Authority shall refuse to accept any additional Prisoners from the Additional Member Jurisdictions.

Section 6.2 – Further Documents and Data. The parties to this Agreement will execute and deliver all documents and perform all further acts that may be reasonably necessary to perform the obligations and consummate the transactions contemplated by this Agreement.

Section 6.3 – Right to Access. Each Member Jurisdiction will have reasonable access to the Jail in order to monitor the Authority's compliance with the terms of this Agreement.

Section 6.4 – Notification. The Authority will promptly furnish to each Member Jurisdiction a copy of any notice or order of any governmental authority asserting that the Authority or the Jail is not in compliance in any material respect with any Applicable Law.

Section 6.5 – Tax-Exemption Covenant.

A. The Authority has issued and intends to continue to issue the Notes and Bonds in a manner such that their interest is excludable from gross income for federal income tax purposes under Section 103(a) and related provisions of the Internal Revenue Code of 1986, as amended, and applicable rules and regulations. The Authority and each Member Jurisdiction agree that after the Notes and Bonds have been issued, they will not take any action or omit to take any action which would adversely affect such exclusion.

B. Pursuant to Section 15c2-12(b) of regulations issued by the Securities and Exchange Commission, the Authority and Member Jurisdictions may be required to agree with owners of the Notes and Bonds, for as long as such Obligations are outstanding, to supply to certain national securities information repositories (1) annually certain financial and statistical information, and (2) periodically, notification of certain specified material events affecting the Authority, the Member Jurisdictions and such Obligations. The particulars of this ongoing disclosure requirement will be set forth in one or more of an indenture, loan agreement or continuing disclosure agreement. Each Member Jurisdiction agrees to cooperate with the

Authority in fulfilling this requirement, including providing the Authority with timely notice of the occurrence of any of the specified events which are material to its operations and hereby authorizes its County Administrator or City Manager, as the case may be, to execute and deliver any agreement considered necessary or appropriate to evidence such Member's continuing disclosure undertaking.

Section 6.6 – Additional Members. Any city or county in Virginia may, with the approval of its governing body and with the consent of all of the Member Jurisdictions join and participate in the Authority under such additional terms and conditions for membership as may be prescribed by the Authority and the Member Jurisdictions.

Section 6.7 – Withdrawal of Membership. Any Member Jurisdiction may withdraw from membership in the Authority by resolution or ordinance of its governing body; however, no Member Jurisdiction shall be permitted to withdraw from the Authority after any obligation has been incurred and remains outstanding except by unanimous consent of all Member Jurisdictions.

ARTICLE VII

Representations, Warranties and Covenants of Authority

In addition to the covenants in other Articles of this Agreement, the Authority represents, warrants and covenants as follows:

Section 7.1 – Organization, Authorization and Validity. The Authority is a political subdivision of the Commonwealth of Virginia duly organized and validly existing under the laws of the Commonwealth, and has duly authorized, executed, and delivered this Agreement

Section 7.2 – Authority. The Authority has all requisite authority under the Article 3.1 of Chapter 3 of Title 53.1 of the Code of Virginia (1950), as amended (the Act) to execute and

deliver and perform its obligations under this Agreement and is not a party to any indenture, contract or other agreement or arrangement, the performance of which by the Authority would prevent or materially and adversely affect the Authority's ability to perform the terms of this Agreement.

Section 7.3 – Non-Contravention. The execution and delivery of this Agreement by the Authority and the consummation of the transactions contemplated in it will not conflict with or result in a breach of or constitute a default under or violate any of the terms, conditions, or provisions of the Act, the bylaws of the Authority or any material indenture, contract or other agreement or arrangement to which the Authority is a party or by which any of its properties are bound, or any Applicable Law by which the Authority or the Jail is bound.

Section 7.4 – Litigation. The Authority is not a party to any legal, administrative, arbitration or other proceeding or controversy pending, or, to the best of the Authority's knowledge, threatened, which would materially adversely affect the Authority's ability to perform under this Agreement.

Section 7.5 – Approvals. Except for approvals that may be required by the Virginia Board of Corrections, the Authority does not require the consent or approval of any government body to carry out the terms of this Agreement.

ARTICLE VIII

Representations, Warranties and Covenants of Member Jurisdictions

Each Member Jurisdiction represents, warrants and covenants for itself as follows:

Section 8.1 – Organization, Authorization and Validity. Each Member Jurisdiction is a political subdivision of the Commonwealth duly organized and validly existing under the laws of the Commonwealth, and each has duly authorized, executed, and delivered this Agreement.

Section 8.2 – Authority. Each Member Jurisdiction has all requisite authority to execute and deliver and perform its obligations under this Agreement and is not a party to any indenture, contract or other agreement or arrangement, the performance of which by it would prevent or materially and adversely affect its individual performance under this Agreement.

Section 8.3 – Non-Contravention. The execution and delivery of this Agreement by each Member Jurisdiction and the consummation of the transactions contemplated in it will not conflict with or result in a breach of or constitute a default under or violate any of the terms, conditions, or provisions of any charter, resolution or ordinance, any material indenture, contract or agreement or arrangement to which it is party or by which any of its properties are bound, or any Applicable Law by which it is bound.

Section 8.4 – Litigation. No Member Jurisdiction is a party to any legal, administrative, arbitration, or other proceeding or controversy pending, or, to the best of its knowledge, threatened, which would materially and adversely affect its ability to perform under this Agreement.

ARTICLE IX

Defaults and Remedies

Section 9.1 – Default by Authority. The occurrence of any one or more of the following events will constitute an “Event of Default” by the Authority (“Authority Default”):

- (i) Failure of the Authority to pay principal of or interest when due on any Notes, Bonds or other temporary or permanent financing for the Jail issued or obtained by the Authority pursuant to this Agreement;
- (ii) If the Authority is for any reason rendered incapable of performing any of its material obligations under this Agreement;
- (iii) The Authority makes an assignment of all or a portion of its obligations under this Agreement without the prior consent of the Member Jurisdictions;

- (iv) The Authority defaults on any of its material obligations under any agreement pursuant to which any Notes, Bonds, or other temporary or permanent financing for the Jail is issued or obtained by the Authority pursuant to this Agreement and such default is not cured within the applicable cure period;
- (v) Any proceeding is instituted, without the consent of all Member Jurisdictions but with the consent or acquiescence of the Authority, for the purpose of effecting a composition between the Authority and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the funds of the Authority; or
- (vi) The Authority defaults in the due and punctual performance of any other covenant, condition, agreement or provision contained in this Agreement, and the default continues for 30 days after written notice specifying the default and requiring it to be remedied has been given to the Authority by any Member Jurisdiction.

Section 9.2 – Default by Member Jurisdiction. The occurrence of any one or more of the following events will constitute an “Event of Default” by any Member Jurisdiction

(“Member Jurisdiction Default”):

- (i) Failure of any Member Jurisdiction to make payments of Net Operating Expenses or Debt Service charges when due;
- (ii) Any Member Jurisdiction shall for any reason be rendered incapable of fulfilling its obligations under this Agreement;
- (iii) Any proceeding is instituted, with the consent or acquiescence of any Member Jurisdiction, for the purpose of effecting a composition between such Member Jurisdiction and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the funds of such Member Jurisdiction; or
- (iv) Any Member Jurisdiction defaults in the due and punctual performance of any of the other covenants, conditions, agreements, and provisions contained in this Agreement, and the default continues for 30 days after written notice specifying the default and requiring it to be remedied has been given to such Member Jurisdiction by the Authority.

Section 9.3 – Remedies of Member Jurisdictions. Upon the occurrence of an Authority Default, any Member Jurisdiction, after giving notice of such Authority Default to all parties,

may bring suit by mandamus or other appropriate proceeding to require the Authority to perform its duties under the Act and this Agreement or to enjoin any acts in violation of the Act or this Agreement.

Section 9.4 – Remedies of Authority. Upon the occurrence of a Member Jurisdiction Default, the Authority, after giving notice of such Member Jurisdiction Default to all parties, may bring suit by mandamus or other appropriate proceeding to require the Member Jurisdiction to perform its duties under the Act and this Agreement or to enjoin any acts in violation of the Act or this Agreement.

Section 9.5 – Remedies Not Exclusive. No remedy in this Agreement conferred upon or reserved to the parties is intended to be exclusive of any other remedy, and each remedy is cumulative and in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute.

ARTICLE X

Miscellaneous

Section 10.1 – Severability of Invalid Provisions. If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section has not been contained in it.

Section 10.2 – Notices. Any notice or other communication under or in connection with this Agreement shall be in writing, and shall be effective when delivered in person or sent in the United States mail, postage prepaid, or by email to the following persons and addresses or to

such other persons and addresses as any of such persons may from time to time specify in writing.

If to the Authority:

Chairman, Middle River Regional Jail Authority
c/o Jail Superintendent
Post Office Box 590
Verona, Virginia 24482

If to Augusta County:

County Administrator
Post Office Box 590
Verona, VA 24482

If to the City of Staunton:

City Manager
Post Office Box 58
Staunton, VA 24402

If to the City of Waynesboro:

City Manager
503 W. Main Street
Waynesboro, VA 22980

If to the City of Harrisonburg:

City Manager
345 South Main Street
Harrisonburg, VA 22801

If to Rockingham County:

County Administrator
20 East Gay Street
Harrisonburg, VA 22802

Section 10.3 – Execution of Agreement. A sufficient number of copies for each party approving this Agreement, each of which shall be deemed to be an original having identical legal effect, shall be executed by the parties.

Section 10.4 – Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Virginia.

Section 10.5 – Amendments. This Agreement may be changed or amended only with the consent of the Authority and each Member Jurisdiction. No such change or amendment may be made which will affect adversely the prompt payment when due of all monies required to be paid by the Member Jurisdictions under the terms of this Agreement, and no such change or amendment shall be effective which would cause a violation of any provision of any resolution, indenture or agreement pursuant to which any Notes, Bonds or other temporary or permanent financing for the Jail is issued or obtained by the Authority.

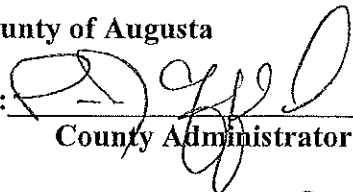
Section 10.6 – Effective Date of Amended Agreement. As amended, this Agreement is effective and binding upon both the Original and Additional Member Jurisdictions as of July 1, 2015.

Section 10.7 – Waiver. Any waiver by any party of its rights under this Agreement must be in writing, and will not be deemed a waiver with respect to any matter not specifically covered. Nothing in this Agreement authorizes the waiver of any Member Jurisdiction's obligation to make payments when due of any monies required to be paid by the Member Jurisdictions under the terms of this Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the Governing Bodies of the Member Jurisdictions have authorized this Agreement to be executed by their respective chief administrative officials, and the Jail Authority has authorized this Agreement to be executed by its chairman.

County of Augusta

By: 

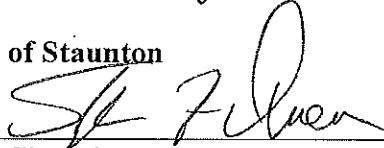
County Administrator

City of Waynesboro

By: 

City Manager

City of Staunton

By: 

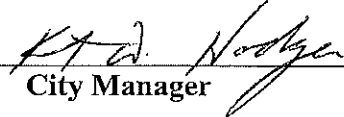
City Manager

Middle River Regional Jail Authority

By: 

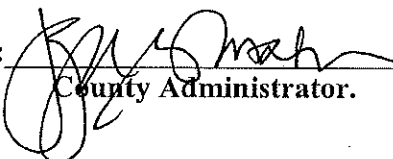
Chairman

City of Harrisonburg

By: 

City Manager

County of Rockingham

By: 

County Administrator.

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 28, 2021	City Council
Item #	A	
Ordinance #		
Department:	City Council	
Council Vision:	Responsive, Efficient Government	
Subject:	Consent Agenda	

Background: As provided in [Council Procedure Memorandum No. 15](#), it is the policy of City Council to have the City Manager place routine, noncontroversial items on a Consent Agenda. Briefings for each item included on the Consent Agenda have been prepared in the manner and format of regular business items on the agenda, with each item described in sufficient detail to provide the public with an appropriate understanding of such item. All matters listed on the Consent Agenda will be enacted by one motion and as a single item. There will be no separate discussion of an item. If discussion is desired, the item may be removed from the Consent Agenda at the request of a member of City Council and considered separately at the end of the regular meeting agenda.

The Mayor will inquire whether any member of City Council desires to remove any item from the Consent Agenda and to place such item on the regular meeting agenda for separate consideration.

Suggested Motion (if no items removed):

I move to approve the Consent Agenda, as presented.

Suggestion Motion (if one or more items removed):

I move to approve the Consent Agenda with the exception of item(s) _____, and that item(s)_____ be moved to the end of the regular agenda for discussion and a separate vote.

City Manager: Steven L. Rosenberg

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 28, 2021	Staff Member: R. Scott Garber
Item #	A. 1.	
Ordinance #		
Department:	Fire and Rescue	
Council Vision:	Responsive, Efficient Government	
Subject:	Application for FY2020 Assistance to Firefighters Grant	

Background: Assistance to Firefighter Grants (AFG) provide financial assistance directly to fire departments to enhance their capabilities with respect to fire and fire-related hazards. AFG's primary goal is to assist organizations in meeting their firefighting and emergency response needs. AFG seeks to support organizations that lack the tools and resources necessary to more effectively protect the life and safety of the public and their emergency response personnel with respect to fire and all other hazards. Cost sharing under AFG is based on the population protected by the grantee. Organizations serving populations between 20,000 and 100,000 must agree to match the federal grant funds with an amount of 10% of the total project cost. The Staunton Fire and Rescue Department is pursuing a grant to fund additional thermal imaging cameras (shown below) to increase the effectiveness and safety of personnel and the public, at the cost of \$45,000, with a 10% local match of \$4,500. The 10% match will be funded from the department's annual Virginia Department of Fire Programs Aid to Locality funding. The grant application is due February 12, 2021.

City Manager's Recommendation: Recommend that City Council authorize staff to apply for an Assistance to Firefighters Grant, as proposed.

Suggested Motion (to be made if the item is moved from the consent agenda to the regular meeting agenda): I move that City Council authorize staff to apply for an Assistance to Firefighters Grant for the purpose of acquiring thermal imaging cameras, as proposed, provided matching funds are available in the Fire and Rescue Department budget for this purpose.

City Manager: Steven L. Rosenberg



CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 14, 2021	Staff Members: Billy Vaughn Amanda DiMeo
Item #	A. 2.	
Ordinance #		
Department:	Economic Development	
Council Vision:	Economic Development	
Subject:	Application for a Virginia Economic Development Partnership Grant through the Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund for The Arcadia Project	

Background: The Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund (VBAF) was established pursuant to Virginia Code § 10.1-1237, to provide either grants or loans to local governments to promote the restoration and redevelopment of brownfield sites and to address environmental problems or obstacles to reuse so that these sites can be effectively marketed to new economic development prospects.

VBAF Site Assessment and Planning Grants are to be used to help fill a financing gap for projects or phases of work for such restoration and redevelopment that have not already commenced. The grant is not available to reimburse for costs already incurred for a project or phase of work that has begun or is already completed. Grants, in amounts of up to \$50,000, are available to assist with the costs of:

- environmental and cultural resource site assessments;
- development of remediation and reuse plans;
- the necessary removal of human remains, the appropriate treatment of grave sites, and the appropriate and necessary treatment of significant archaeological resources, or the stabilization or restoration of structures listed on or eligible for the Virginia Historic Landmarks Register; or

- demolition and removal of existing structures, or other site work necessary to make a site or certain real property usable for new economic development.

Staff is requesting that the City, on behalf of The Arcadia Project, submit an application to the Virginia Economic Development Partnership (VEDP) for a VBAF Remediation Grant. As noted, the maximum grant award is \$50,000, and each award requires a dollar-for-dollar match. The Arcadia Project will utilize previously expended funds to satisfy the local match requirement.

Project Description: The proposed project will transform the long vacant historic Dixie Theater into an entertainment and educational center with a mission of connecting people through culture and creativity. This project will simultaneously return the building to taxpaying status, and provide needed space for Staunton's creative arts scene. The redevelopment will create four spaces which will include a movie theater/lecture hall, an event space that will host conferences and live performances, two digital media classrooms, and a small specialty food café.

Scope of Work Description: A study conducted by an asbestos company identified areas of asbestos contamination throughout. Notably, all the acoustical ceiling and wall plaster contains asbestos. The grant funds would be used to remediate the friable ceiling plaster debris found above and on the ceiling tiles; remediate all contaminated ceiling plaster in lobby; to remediate all contaminated vinyl floor tiles and associated mastic; to demolish and remediate several walls in contact with asbestos laden ceilings; and to affix horizontal wall girts to contaminated exterior auditorium walls to enable subsequent entombment at a later phase of redevelopment. Earlier remediation addressed the boiler room and attic.

Budget: The total budget for this phase of the project is \$50,000. Additional investment to be made by private donation, and subsequent grant funding for full redevelopment of the site, is estimated at over \$2.0 million, which includes final design and engineering, and building improvements for the new community arts center. During the project's first phase, The Arcadia Project, in partnership with the Community Foundation of the Central Blue Ridge, raised \$70,000 from 38 donors. Atlantic Union Bank forgave a \$280,000 loan balance, thus clearing a \$350,000 debt that had proved a stumbling block for redevelopment.

Local Match: While the required local match is dollar-for-dollar, The Arcadia Project will provide the required local match in the amount of \$95,000. The project will utilize previously expended funds from its 2019 Main Street Feasibility Grant totaling \$25,000 for (a) Structural Condition Survey completed November 2019 (\$2,000), (b) Market Analysis completed December 2019 (\$10,000), (c) Architectural Report including schematic floor plans and concept drawings completed May 2020 (\$7,500), (d) Industrial Revitalization Fund grant writing and operational consultants completed July 2020 (\$4,250), and (e) Administrative Allowance (\$1,250) (5% of grant). The project paid \$70,000 in July 2019, to Atlantic Union Bank to retire an outstanding debt.

To proceed with the application, a resolution of support is required, evidencing the City's support of this project, and The Arcadia Project commitment to fund the local match. A proposed resolution is attached for Council's consideration.

Fiscal Impact: No direct cash match is required of the City for this grant. The grant implementation process would, however, require staff time for grant administration, monitoring, and reporting.

Pamela Mason Wagner, executive director of The Arcadia Project, will be available to answer questions of Council members.

Attachments:

Attachment 1—The Arcadia Project-Site Assessment, Planning Grant Application and Supporting Documentation

Attachment 2—Draft City Council Resolution Approving an Application by the City of Staunton to the Virginia Economic Development Partnership for a Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund Remediation Grant to fund The Arcadia Project

City Manager's Recommendation: Recommend the resolution be adopted as presented.

Suggested Motion (to be made if the item is moved from the consent agenda to the regular meeting agenda): I move to adopt the resolution approving an application by the City of Staunton, Virginia to the Virginia Economic Development Partnership for a Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund Remediation Grant to fund The Arcadia Project, as presented, and to authorize the City Manager or his designee to complete any actions necessary in connection with such grant.

City Manager: Steven L. Rosenberg

Virginia Brownfields Restoration & Economic Redevelopment Assistance Fund

Site Assessment & Planning Grant
Application

FY 2021

City of Staunton, Virginia
Former Dixie Theater
123-125 E. Beverley Street,
Staunton, Virginia

**Virginia Brownfields Restoration and Economic Redevelopment
Assistance Fund (VBAF)**

Site Assessment & Planning Grant Application

**City of Staunton, Virginia
Former Dixie Theater
123-125 E. Beverley Street,
Staunton, Virginia**

January 28, 2021

Attention:

Lauren Stuhldreher
Incentives Coordinator
Virginia Economic Development
Partnership
901 E. Cary Street, Suite 900
Richmond, VA 23219
804.545.5706
vbaf@vedp.org

J. Meade R. Anderson, CPG
Brownfields & Voluntary Remediation
Program Manager
Dept. of Environmental Quality
P.O. Box 1105
Richmond, VA 23218
804.698.4179
J.Meade.Anderson@deq.virginia.gov

Part I – Applicant

- 1. Applicant:** City of Staunton, Virginia
- 2. Site:** Former Dixie Theater
123-125 E. Beverley St,
Staunton, VA, 24401

3. Prior VBAF Program Grants:

Staunton was awarded \$431,200 in FY 2019 (VBAF #2) for Staunton Crossing. The funds will support the removal and disposal of hazardous materials at the former Western State Hospital property on Richmond Avenue, a critical step in preparing the development for potential investors.

Staunton was awarded a \$50,000 VBAF assessment grant in FY2012 for the former Robert E Lee High School property, which was subsequently renovated and converted to a senior housing facility. Environmental studies associated with the project included Phase I and II Environmental Site Assessments (ESAs) for approximately 3 acres, formerly used as an athletic field, of the nearly 6-acre property. The ESAs evaluated the environmental conditions of the site and provided recommendations for management of impacted fill material near Peyton Creek prior to handling and removal. The environmental assessments were completed in August 2012. The property, purchased in 2008 by Octagon Partners of Charlottesville, has been preserved and its former classrooms have been transformed into 62 apartments, community spaces, and an epicenter of activity for the senior population. See **Attachment I-3, Exhibit A** for list of prior VBAF Program Grants.

4. Primary Contact: William L. Vaughn
Director, Community and Economic Development Departments
City of Staunton
116 W. Beverley St #3
Staunton, VA 24401
(540) 332-3869 (phone)
vaughnwl@ci.staunton.va.us

Secondary Contact: Pamela Mason Wagner, Executive Director,
Arcadia Project
P.O. Box 571
Staunton, VA 24402
(540) 885-3211 work, (917) 621-7660 cell
info@thearcadiaproject.org

5. Grant Request: \$50,000.00

6. Certification:

To the best of my knowledge and belief, the information contained in this application is true and correct and the application has been duly authorized by the governing body of the applicant.

Signature: _____
Name: William L. Vaughn, Director
Title: Director, Community and Economic Development Departments
Date: January 28, 2021

Part II – Site

1. Site identification:

Tax Lot 3 Blk U, Parcel ID # 3367 is a two-story historic movie theater (formerly the Dixie). The 10,741 sq. foot building occupies the entire lot. The site is privately owned by New Theatre, LP, a wholly owned subsidiary of the non-profit Arcadia Project, tax ID no. 54-2003615. Arcadia Project in partnership with Staunton Downtown Development Association received a Main Street Feasibility Grant in November 2019 for a feasibility study which led to an IRF grant application submitted by the City of Staunton July 31, 2020 in order to redevelop the building as a community arts and cultural center.

2. Site Description:

The vacant historic theater at 123-125 E. Beverley Street anchors the east end of Staunton's downtown Business District. It lies within a designated Virginia Main Street District, a Tourism Zone, and a nationally registered historic preservation district. Its 1936 façade featuring theatrical faces, and colorful terra cotta tile windows is a unique example of Art Moderne design. Steps away from American Shakespeare Center, and Woodrow Wilson Museum and Library, the theater contributes to the ambience that brings Staunton "best downtown" awards from publications like Wall Street Journal, USA Today and Smithsonian. The site's current assessed value is \$301,800.

See **Attachment II.2** for photographs of the current building and site location maps.

3. Community:

- (a) Based on the U.S. Census Bureau Quick Facts for 2019 the population of Staunton was 24,932. The percentage of residents living in poverty in 2019 was 13.7%, and is significantly higher than the statewide average of 9.9% and surrounding Augusta County average of 9%. Median household income stands at \$48,049, only 67% of the state median of \$71,564 and also lower than the county median of \$61,305.
- (b) Local and state entities' support for the project include: Schnitzhofer & Associates, LLC of Charlottesville & Staunton prepared a Structural Condition Survey in November of 2019 and found the building sound; Summit Design & Engineering Services of Richmond conducted a Market Analysis in December of 2019 that proved viability; two general contractors (Mathers Construction Co and Nielsen Builders Inc.) developed bids to renovate and outfit the building based on plans drawn up by local architect Marc Paxton. End use partnerships with local cultural

organizations including American Shakespeare Center, Heifetz International Music Institute and local radio station WQSV are in development.

4. Infrastructure:

- (a) This former movie theater contains the necessary infrastructure for a community cultural center, and repurposing will make use of those existing connections. The site is served by three-phase power, large capacity water (8-inch and 12-inch), sanitary sewer (24-inch), natural gas, and high-speed telecommunications/fiber optic services to the building.

See **Attachment II.4** for photograph of existing public water and sewer utilities at the site.

- (b) The site is well served by existing transportation options. Staunton's Downtown Trolley provides transportation in the City's historic and scenic downtown area passing directly in front of the historic theater. The adjacent Hardy Parking lot affords 62 metered parking spots and nearby garages and lots offer 887 additional off street parking spots. The theater's convenient access to major thoroughfares (US Route 11) and the city of Staunton's location adjacent to the northernmost junction of I-81 and I-64 provide ideal access to travelers from all directions.

See **Attachment II.2** for a map showing existing transportation infrastructure in relation to the property.

5. Environmental Concerns:

- (a) There is no known or suspected soil contamination or water contamination at the site which has only ever operated as a theater since its initial construction in 1912. However, a 2001 Asbestos Study conducted by Palmer Asbestest Company collected 102 bulk samples which were tested at Scientific Laboratories in Midlothian, VA. Significant friable asbestos contamination was identified in three areas: Boiler Room, Attic, and Acoustical Ceiling and Wall plaster (Kalite) along with non-friable asbestos contamination in vinyl floor tiles & associated mastic. The Boiler Room and Attic were addressed in a previous remediation.

See **Attachment II.5 Asbestos Study**.

- (b) This property is not currently subject to any federal or state environmental regulatory program.

6. Virginia Voluntary Remediation Program (VRP):

This property is not currently enrolled in the VRP. This project addresses only asbestos, and VELAP certification is not available for sampling for Asbestos Containing Materials (ACM). However, the project is prepared to meet to meet state and federal remediation and risk standards for reuse. The project will also maintain records facilitating future property revitalization to demonstrate appropriate care and to assist potential VRP enrollment, if appropriate.

Part III – Project

1. Project Description:

The proposed project will transform the long vacant historic Dixie Movie Theater into an entertainment and educational center with a mission of connecting people through culture and creativity. This project will simultaneously: i) return the building to tax paying and generating status ii) provide needed space for Staunton’s lively creative arts scene. The redevelopment will create four spaces: a movie theater/lecture hall; an event space that will host conferences and live performances; two digital media classrooms; and a small specialty food café. Proposed work under this VBAF grant will address previously recognized environmental conditions (REC’s).

2. Scope of Work Description:

A study conducted by Palmer Asbestest Company identified areas of asbestos contamination throughout. Notably, all the acoustical ceiling and wall plaster (Kalite Plaster) contains asbestos. Proposed work under this VBAF grant would: remediate the friable ceiling plaster debris found above and on the ceiling tiles; remediate all contaminated ceiling plaster in lobby; remediate all contaminated vinyl floor tiles and associate mastic; demolish and remediate several walls in contact with asbestos laden ceilings; affix horizontal wall girts to contaminated exterior auditorium walls to enable subsequent entombment of at a later phase of redevelopment. Earlier remediation addressed the boiler room and attic.

See **Attachment III.2(a)** for scope of work and **Attachment III.2(b)** for wall girts design.

3. Budget:

The total budget for this phase of the project is \$50,000 as outlined on in **Attachment III.3, Exhibit B**. Additional investment to be made by private donation, and subsequent grant funding for full redevelopment of the site is estimated at over \$2.0 million, which includes final design and engineering, and building improvements for the new community arts center. During the project’s first phase the Arcadia Project, in partnership with Community Foundation of the Central Blue Ridge raised \$70,000 from 38 donors. Atlantic Union Bank forgave the \$280,000 balance thus clearing a \$350,000

debt that had proved a stumbling block for redevelopment.

4. Local Match:

As noted in the Staunton City Council Resolution dated January 28, 2021, the Arcadia Project will provide the local match. The project will utilize previously expended funds from its 2019 Main Street Feasibility Grant totaling **\$25,000** for (a) Structural Condition Survey completed November 2019 at \$2,000, (b) Market Analysis completed December 2019 at \$10,000, (c) Architectural Report including schematic floor plans & Concept Drawings completed May 2020 at \$7,500, (d) IRF Grant writing, & operational consultants completed July 2020 at \$4,250, (e) Administrative Allowance of \$1,250 (5% of grant). The project paid **\$70,000** in July 2019 to Atlantic Union Bank to retire an outstanding debt. The total local project match for this phase of the project is **\$95,000**.

(See Attachment III.4 for invoices)

5. Time-Frame:

The project is committed to completing this phase of the project within the current fiscal year, or by June 2021 assuming funds are unfrozen. A project timeline has been developed and is included as **Attachment III.5, Exhibit C**. Future redevelopment of the site for reuse as a community arts center is anticipated to be accomplished within the next three fiscal years.

6. Virginia Environmental Laboratory Accreditation Program (VELAP)

Given VELAP certification is not available for sampling for Asbestos Containing Materials (ACM) we are providing evidence that the data was analyzed appropriately by an accredited Laboratory. (See **Attachment II.5 Asbestos Study**.)

Part IV – Potential Redevelopment and Reuse

1. Potential Redevelopment and Reuse Plans:

The former Dixie Theater will serve the City of Staunton as a 21st Century cultural center focused on four key areas of educational and entertainment programming: film, food, technology and music. This program is designed to reach a regional audience, but some of the programming will be more specifically targeted at young adult, youth and minority populations within the city, which are underserved by other local cultural venues. Finally, the historic theater, which sits on the eastern end of Beverley Street, Staunton's principle downtown street, has been a blighting influence on this block and

has negatively affected the surrounding properties. Moreover, the vacant historic theater's dark and deteriorated façade has effectively acted as a gap between the rest of downtown to the west and some of Staunton's major tourist destinations, the Woodrow Wilson Museum, the Blackfriars Theater, and the (former) Stonewall Jackson Hotel, all of which lie just a block to the east. The renovation of the historic theater will effectively pull these other attractions into the downtown. We do not anticipate any institutional controls such as deed restrictions and/or use limitations to be placed on the property.

2. Economic Impact:

The project anticipates creating at least 3 full-time jobs and 5 part-time positions at the outset. In terms of secondary impacts, Staunton has a vibrant tourist economy and has spent the past two decades investing in its downtown core. The Arcadia Project will increase meals and lodging tax collections, improve the attractiveness of downtown to potential businesses, and increase downtown property tax values. By stabilizing and securing an important and long vacant historical landmark we anticipate more direct secondary benefits to the business and restaurants immediately surrounding the Arcadia Project.

3. Strategic or Comprehensive Plans:

Staunton's Comprehensive Plan states the goal: "Aggressively pursue an economic development program that strengthens and broadens the City's economic base." Arcadia Project's educational offerings are designed for youth seeking music, technology, and media skill sets that could lead to careers in film, music, or technology. Other City goals supported by this project include:

- Encourage a demographically diverse and growing population
- Promote rehabilitation and conservation throughout the City by reuse of existing infrastructure and buildings
- Continue development of a vibrant, active downtown
- Continue to support the primary efforts of organizations that are enhancing arts and culture in Staunton.

See Attachment IV.3 for link to Staunton's Comprehensive Plan.

4. Zoning:

The project is currently zoned B-2 Zoning which permits "amusement and recreational establishments." There is no need to change any zoning for the site.

5. Prospects:

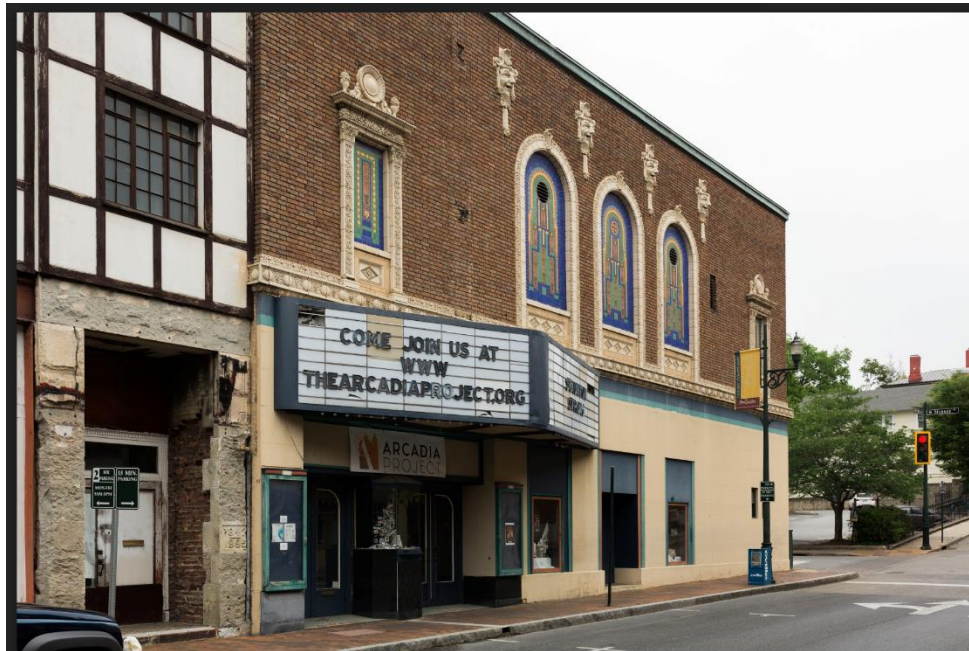
After an earlier attempt in the 2000's to revitalize the theater failed to achieve its vision, a new non-profit, the Arcadia Project, coalesced in 2017. One of this group's first actions was to survey the community to garner its input. A high percentage of the 274 respondents elected to follow and assist with the development and led to the formation of a board of directors. Subsequent fundraising successes, grants received, and the generous donation of \$280,000 from Atlantic Union Bank all point toward a successful new chapter in the life of this historic theater.

ATTACHMENT 1-3, Exhibit A
City of Staunton, Virginia
Previous VBAF Program Grants and Match Allocations

No.	Site	Grant Year	Scope of Work	Status	Project Total	Source		
						Local Match	EPA Grant	VBAF Grant
VBAF #1	Former Robert E Lee High School 6 acre property	FY 2012	Phase I, II and other analysis (3 acres)	COMPLETE				\$50,000
VBAF #2	Staunton Crossing	FY 2019	Removal and disposal of hazardous materials at the former Western State Hospital property on Richmond Avenue	Underway				\$431,200
				TOTAL	\$ -	\$ -	\$ -	\$481,200

Attachment II-2

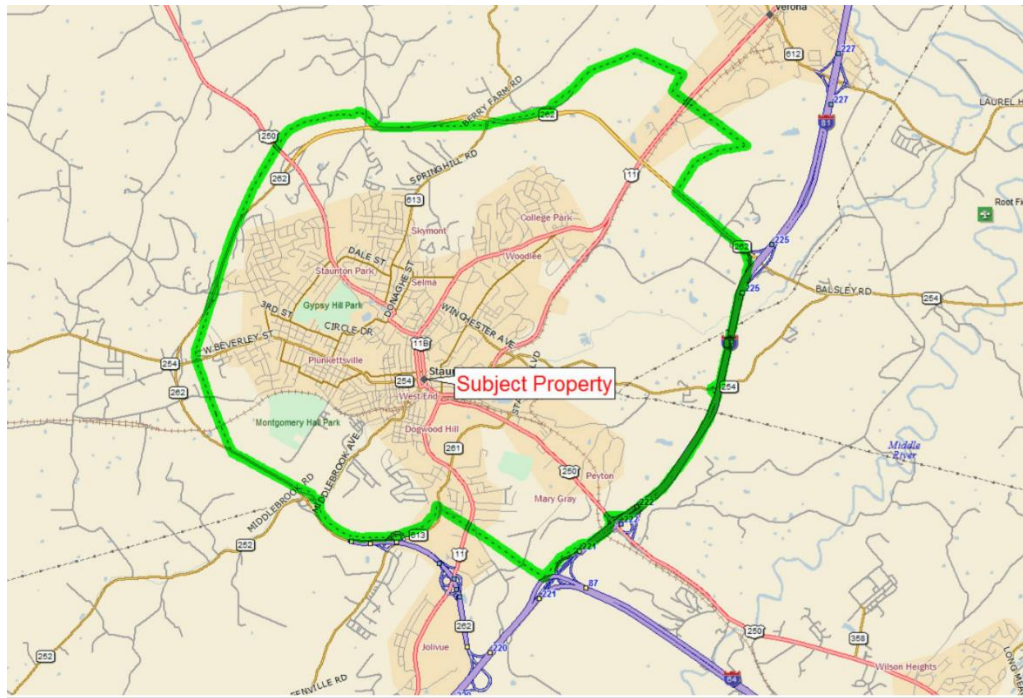
Former Dixie Theater exterior



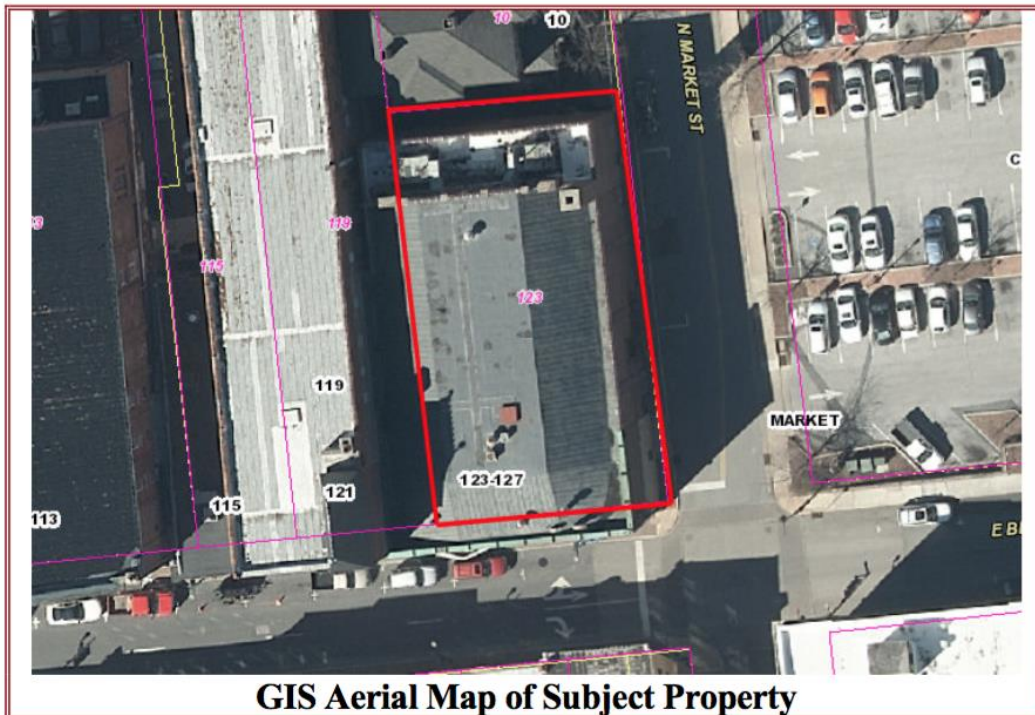
Former Dixie Theater interior



Site location maps:



Area Map With Outline of City of Staunton Shown in Green



GIS Aerial Map of Subject Property

Attachment II-4a

Existing public water and sewer utilities at the site



ATTACHMENT II-5

ASBESTOS INSPECTION DOCUMENTS

*New Dixie Theater
125 East Beverley Street
Staunton, VA 24401*

August, 2001

BUILDING SUMMARY

On July 28, 2001, Palmer Asbestest Company was contracted to perform an asbestos inspection of the New Dixie Theater in Staunton, VA. Between the dates of August 14 and August 23, 2001, a total of 102 bulk samples of suspect materials were collected and forwarded to Scientific Laboratories, Inc. located at 13635 Genito Road, Midlothian, Virginia, for analysis. The bulk samples were analyzed via Polarized Light Microscopy using the EPA Interim Method for the Determination of Asbestos in Bulk Samples (EPA-600/R-93/116). This inspection only identifies asbestos that is accessible through non-destructive methods. It does not identify asbestos-containing material located within walls or otherwise generally inaccessible areas.

The interior of the building consists of four Theaters, Projections rooms, Concession areas, Restrooms, Storage rooms, Basement, Boiler Room, and Attic. As per our agreement, the roof was not included in our inspection at this time. Competent personnel should evaluate the roofing materials prior to any disturbance.

The inspection and subsequent analysis determined the following materials to be ACBM:

Friable Thermal System Insulation

- Gray Thermal System Insulation, Straight Run (Corrugated), found throughout the building.
- Gray Thermal System Insulation Batts located in the Boiler Room.
- Gray Thermal System Insulation located in Boiler Room and Compressor Room.
- Gray Thermal System Insulation (mud fittings) on pipe elbows, pipe unions, and pipe saddle hangers found throughout the building.
- HVAC Duct Insulation (Corrugated) located in the Attic.

Friable Surfacing ACBM

- Textured Ceiling Plaster (Kalite Plaster) located throughout the building.
- Textured Wall Plaster (Kalite Plaster) located throughout the building.

Friable Miscellaneous ACBM

- Black Rope Gasket located in Boiler Room.

Nonfriable Miscellaneous ACBM

- Black 9" x 9" Vinyl Floor tile & Associated Mastic located below carpet at concession.
- Blue 9" x 9" Vinyl Floor tile & Associated Mastic located below carpet at concession.

- Beige 4" x 4" Vinyl Floor tile & Associated Mastic located in the first floor Storage area.
- Gray 12" x 12" Vinyl Floor tile & Associated Mastic located in the Game Room.
- White Vibration Dampener located in the second floor Projection Room for Theater #3.
- Beige Window and Door Caulking found on the exterior of the building.
- Five Fire Doors located in the Boiler Room are assumed to contain asbestos.
- Heat Shields inside the older lighting fixtures located throughout the building are assumed to contain asbestos.

All other suspect materials sampled tested negative for asbestos content. The terra cotta block used in the walls throughout the building was not tested. If it is to be disturbed through renovation or demolition, it should be sampled. If the fresh air plenum will be disturbed through renovation or demolition, it should be inspected for the presence of insulation inside. Any insulation inside the plenum should be sampled. The orchestra pit was also inaccessible at the time of the inspection. Once the theater is closed for renovation and items have been moved out, we can revisit any inaccessible areas if necessary. Any other suspect materials found in the building and not covered in this inspection must be assumed to contain asbestos until tested.

Because of the extensive renovation plans we have discussed so far and the percentages of asbestos found, our recommendations at this point include the complete removal of at least the following three areas. Specific procedures shall be outlined in your Project Design.

1. Boiler Room

All thermal system insulation found throughout this area is in poor condition with considerable deterioration and physical damage. In this present state, the material is considered friable and will most likely release fibers if disturbed through renovation or demolition. All access should be restricted until the abatement. A Virginia Licensed Abatement Contactor should perform all abatement work. Estimated Abatement cost: \$15,000

2. Attic

All thermal system insulation found throughout this area is in poor condition with considerable deterioration and physical damage. In this present state, the material is considered friable and will most likely release fibers if disturbed through renovation or demolition. All access should be restricted until the abatement and complete decontamination. In addition, we found four boxes of unused insulation. A Virginia Licensed Abatement Contactor should perform all abatement work. Estimated Abatement cost: \$85,000 – \$135,000

3. Above Ceiling tiles/ Partition wall attachment:

The acoustical ceiling plaster and wall plaster (Kalite Plaster) used throughout the theatres and lobby contains asbestos. In several places noted the plaster is either damaged or deteriorated. The area of most concern is the theater ceilings. For the most part the ceiling tiles and grid are intact. However, previous renovations and roof leaks have generated a considerable amount of friable ceiling plaster debris found above and on the ceiling tiles. The entire space between the ceiling tiles and plaster ceiling is thoroughly contaminated. All access should be restricted until the abatement and complete decontamination. This includes the removal and replacement of any ceiling tiles. A qualified Virginia Licensed Abatement Contractor must scaffold the area and decontaminate the space above the tiles before any renovation activities begin in these areas.

In addition, we had discussed possibly removing the partition wall between theatres 1 and 2. The non-asbestos center wall contacts the asbestos ceiling plaster. Qualified personnel must disconnect the top portion of the wall (*if it is to be removed*) from the ceiling itself. The ceiling tile and grid removal and center wall demolition could be performed in the same phase. Estimated Abatement cost: \$75,000 - \$125,000

The ceiling and wall plasters are in fair to damaged condition with considerable damage in areas, especially the ceiling. In their present state, the materials are considered friable and will release fibers if disturbed through renovation or demolition. The plasters should be protected from further damage. Depending on your renovation plans, all wall and ceiling penetrations could be dealt with alternatively. For example, I assume the renovations will affect the lighting fixtures. Qualified abatement personnel could decontaminate each individual area and then electricians could replace the fixtures after decontamination. For your protection, samples would be pumped to ensure that no fibers had been released. Specific procedures shall be outlined in your Project Design.

The asbestos containing floor tile and associated mastic are considered non-friable and in fair to damaged condition. These materials should not release fibers unless disturbed through renovation or demolition. The asbestos containing exterior window glazing is in fair condition and considered non-friable. The glazing should not release fibers unless disturbed through renovation or demolition.

The abatement costs will be considerable for this building. The areas addressed are the most obvious areas that will be affected by upgrading the HVAC, electrical, plumbing, etc. We strongly suggest that you meet with your architect, in order to decide how the renovations will impact the asbestos materials that we have identified. Once you have that accomplished, then we can begin your Project Designing. As I mentioned before, if you have a reconstruction plan, we can merge all of the Design documents into one, preventing redundant charges for each specific Removal Design. Also, you may consider hiring a Demolition Contractor who is also Asbestos licensed. This could save on mobilization charges.

We would be glad to discuss all of your options at your convenience. Once you have had time to review this evaluation, we should meet to discuss our plans of action. Until then, I remain,

Respectfully,

A handwritten signature in black ink, appearing to read "Chance Famuliner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chance Famuliner

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-1	Theater 1	Textured Ceiling Plaster	7% chrysotile
D-2	Lobby	Textured Ceiling Plaster	7% chrysotile
D-3	Theater 2	Textured Ceiling Plaster	7% chrysotile
D-4	Theater 3	Textured Ceiling Plaster	7% chrysotile
D-5	Theater 4	Textured Ceiling Plaster	6% chrysotile
D-6	2 nd Flr. Stairwell	Smooth Ceiling Plaster	NAD
D-7	2 nd Flr. Stairwell	Smooth Ceiling Plaster	NAD
D-8	1 st Flr. Storage	Smooth Ceiling Plaster	NAD
D-9	Ladies' Restroom	Smooth Ceiling Plaster	NAD
D-10	1 st . Flr. Corridor	Smooth Ceiling Plaster	NAD
D-11	Theater 3	Textured Wall Plaster	4% chrysotile
D-12	Theater 4	Textured Wall Plaster	3% chrysotile
D-13	2 nd Floor Passage	Textured Wall Plaster	7% chrysotile
D-14	Theater 4	Textured Wall Plaster	7% chrysotile
D-15	Theater 1	Textured Wall Plaster	7% chrysotile
D-16	Booth	Smooth Wall Plaster	NAD
D-17	1 st Flr. Corridor	Smooth Wall Plaster	NAD
D-18	1 st Flr. Stairwell	Smooth Wall Plaster	<1% chrysotile
D-19	Ladies Restroom	Smooth Wall Plaster	<1% chrysotile
D-20	2 nd Flr. Stairwell	Smooth Wall Plaster	NAD
D-21	Lobby	9" x 9" Vinyl Floor Tile	10% chrysotile
		Associated Black Mastic	10% chrysotile
D-22	Corridor	9" x 9" Vinyl Floor tile	10% chrysotile
		Associated Yellow Mastic	NAD
D-23	Lobby	9" x 9" Vinyl Floor tile	15% chrysotile
		Associated Black Mastic	15% chrysotile
D-24	Corridor	9" x 9" Vinyl Floor tile	15% chrysotile
		Associated Yellow Mastic	NAD
		Associated Yellow Mastic	15% chrysotile
D-25	Concession Stand	12" x 12" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD
D-26	Concession Stand	12" x 12" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD
D-27	1 st Flr. Storage	4" x 4" Vinyl Floor tile	3% chrysotile
D-28	1 st Flr. Storage	4" x 4" Vinyl Floor tile	3% chrysotile
D-29	1 st Flr. Storage	4" x 4" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD
D-30	1 st Flr. Storage	4" x 4" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD

New Dixie Theater**Page 2****Asbestos Materials Inspection****Asbestos Sampling Locations, Descriptions & Results (listed by Sample #)**

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-31	Game Room	12" x 12" Vinyl Floor tile	4% chrysotile
		Associated Black Mastic	10% chrysotile
D-32	Game Room	12" x 12" Vinyl Floor tile	NAD
		Associated Black Mastic	10% chrysotile
D-33	Concession Stand	Vinyl Base Molding	NAD
		Associated Beige Mastic	NAD
D-34	Concession Stand	Vinyl Base Molding	NAD
		Associated Beige Mastic	NAD
D-35	Booth - Front	1' x 1' Ceiling tile	NAD
D-36	Booth - Front	1' x 1' Ceiling tile	NAD
D-37	2 nd Flr. Projection Tht. 1	12" x 12" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD
D-38	2 nd Flr. Projection Tht. 1	12" x 12" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD
D-39	Lobby	Joint Compound	NAD
D-40	Theater 2	Joint Compound	NAD
D-41	Lobby	Gypsum Wallboard	NAD
D-42	Theater 2	Gypsum Wallboard	NAD
D-43	Men's Restroom	Ceramic Tile Grout	NAD
D-44	Ladies' Restroom	Ceramic Tile Grout	NAD
D-45	Theater 2	2' x 4' Ceiling tile	NAD
D-46	Theater 1	2' x 4' Ceiling tile	NAD
D-47	2 nd Flr. Projection Tht. 2	2' x 4' Ceiling tile	NAD
D-48	2 nd Flr. Projection Tht. 2	2' x 4' Ceiling tile	NAD
D-49	1 st Flr. Storage	2' x 4' Ceiling tile	NAD
D-50	2 nd Flr. Projection Tht. 3	Vibration Dampener	75% chrysotile
D-51	2 nd Flr. Projection Tht. 3	HVAC Duct Mastic	NAD
D-52	2 nd Flr. Projection Tht. 3	HVAC Duct Mastic	NAD
D-53	Exterior - Front	Window & Door Caulking	NAD
D-54	Exterior - Front	Window & Door Caulking	10% chrysotile
D-55	Exterior - Front	Window Glazing	NAD
D-56	Exterior - Front	Window Glazing	NAD
D-57	Theater 2	Textured Wall Plaster	7% chrysotile
D-58	Front Lobby	Textured Wall Plaster	NAD
D-59	Theater 2	Textured Ceiling Plaster	7% chrysotile
D-60	Theater 2	Textured Ceiling Plaster	7% chrysotile
D-61	Game Room	Smooth Ceiling Plaster	NAD
D-62	Game Room	Smooth Ceiling Plaster	NAD
D-63	Basement	Smooth Wall Plaster	NAD

New Dixie Theater**Page 3**

Asbestos Materials Inspection

Asbestos Sampling Locations, Descriptions & Results (listed by Sample #)

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-64	Side Entrance @ Basement	Smooth Wall Plaster	NAD
D-65	Basement Entrance	Troweled Textured Wall Plaster	NAD
D-66	Hall @ Basement	Troweled Textured Wall Plaster	NAD
D-67	Hall @ Basement	Ceiling Spackling	NAD
D-68	Hall @ Basement	Ceiling Spackling	NAD
D-69	Backstage	Curtains	NAD
D-70	Backstage	Curtains	NAD
D-71	Backstage	Valences	NAD
D-72	Backstage	Valences	NAD
D-73	Hot Water Radiator Supply	Thermal System Insulation - Straight Run (Corrugated)	85% chrysotile
D-74	Boiler Room	Thermal System Insulation - Batts	55% chrysotile
D-75	Boiler	Thermal System Insulation - Batts	70% chrysotile
D-76	Boiler Room - Flue	Thermal System Insulation - Batts	NAD
D-77	Boiler Room	Rope Gasket	65% chrysotile
D-78	Boiler Room – Main Line	Thermal System Insulation - Straight Run (Corrugated)	20% chrysotile
D-79	Boiler Room – Cold Water Supply	Thermal System Insulation - Straight Run	55% chrysotile
D-80	Compressor Room	Thermal System Insulation - Straight Run	5% chrysotile
D-81	Boiler Room – Cold	Thermal System Insulation - Mud Fittings	75% chrysotile
D-82	Boiler Room – Valve	Thermal System Insulation - Mud Fittings	75% chrysotile
D-83	Blower Room	Vibration Dampener	NAD
D-84	Compressor Room	Vibration Dampener	NAD
D-85	Fan Room – inside duct	Duct Lining	NAD
D-86	Fan Room – inside duct	Duct Lining	NAD
D-87	Basement	Smooth Wall Plaster	NAD
D-88	Basement	Smooth Wall Plaster	NAD
D-89	Basement	Wiring	NAD
D-90	Basement	Wiring	NAD

New Dixie Theater**Page 4****Asbestos Materials Inspection****Asbestos Sampling Locations, Descriptions & Results (listed by Sample #)**

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-91	2 nd Flr. Projection	Vinyl Sheet Flooring	NAD
D-92	2 nd Flr. Projection	Vinyl Sheet Flooring	NAD
D-93	Attic	HVAC Duct Insulation	65% chrysotile
D-94	Attic	HVAC Duct Insulation	65% chrysotile
D-95	Attic	2' x 4' Sheet Ceiling	NAD
D-96	Attic	2' x 4' Sheet Ceiling	NAD
D-97	Theater 1 – Heat unit	Decorative Radiator Plaster	NAD
D-98	Theater 1 – Heat unit lead	Decorative Radiator Plaster	NAD
D-99	Projection Room Wall	Textured Wall Plaster	5% chrysotile
D-100	Attic	Overspray Plaster on Angle Iron	NAD
D-101	Attic	Plaster - Brown coat only	NAD
D-102	Backstage – Air plenum	Troweled cement	NAD

NAD = No Asbestos Detected

Homogeneous Area #1: Textured Ceiling Plaster

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-1	Theater 1	Textured Ceiling Plaster	7% chrysotile
D-2	Lobby	Textured Ceiling Plaster	7% chrysotile
D-3	Theater 2	Textured Ceiling Plaster	7% chrysotile
D-4	Theater 3	Textured Ceiling Plaster	7% chrysotile
D-5	Theater 4	Textured Ceiling Plaster	6% chrysotile
D-59	Theater 2	Textured Ceiling Plaster	7% chrysotile
D-60	Theater 2	Textured Ceiling Plaster	7% chrysotile
D-101	Attic	Brown Coat Only	NAD

Homogeneous Area #2: Smooth Ceiling Plaster

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-6	2 nd Flr. Stairwell	Smooth Ceiling Plaster	NAD
D-7	2 nd Flr. Stairwell	Smooth Ceiling Plaster	NAD
D-8	1 st Flr. Storage	Smooth Ceiling Plaster	NAD
D-9	Ladies Restroom	Smooth Ceiling Plaster	NAD
D-10	1 st Flr. Corridor	Smooth Ceiling Plaster	NAD
D-61	Game Room	Smooth Ceiling Plaster	NAD
D-62	Game Room	Smooth Ceiling Plaster	NAD

Homogeneous Area #3: Textured Wall Plaster

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-11	Theater 3	Textured Wall Plaster	4% chrysotile
D-12	Theater 4	Textured Wall Plaster	3% chrysotile
D-13	2 nd Floor Passage	Textured Wall Plaster	7% chrysotile
D-14	Theater 4	Textured Wall Plaster	7% chrysotile
D-15	Theater 1	Textured Wall Plaster	7% chrysotile
D-57	Theater 2	Textured Wall Plaster	7% chrysotile
D-58	Front Lobby	Textured Wall Plaster	NAD
D-99	Projection Room	Textured Ceiling Plaster	5% chrysotile

Homogeneous Area #4: Smooth Wall Plaster

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-16	Booth	Smooth Wall Plaster	NAD
D-17	1 st Flr. Corridor	Smooth Wall Plaster	NAD
D-18	1 st Flr. Stairwell	Smooth Wall Plaster	<1% chrysotile
D-19	Ladies Restroom	Smooth Wall Plaster	<1% chrysotile
D-20	2 nd Flr. Stairwell	Smooth Wall Plaster	NAD
D-63	Basement	Smooth Wall Plaster	NAD

Asbestos Materials Inspection

Homogeneous Areas, Description, Results & Locations (listed by HA #)

Homogeneous Area #4: Smooth Wall Plaster (continued)

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-64	Side Entrance @ Basement	Smooth Wall Plaster	NAD
D-87	Basement	Smooth Wall Plaster	NAD
D-88	Basement	Smooth Wall Plaster	NAD

Homogeneous Area #5: Black 9" x 9" Vinyl Floor tile & Associated Mastic (found below carpet at concession)

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-21	Lobby	9" x 9" Vinyl Floor Tile	10% chrysotile
		Associated Black Mastic	10% chrysotile
D-22	Corridor	9" x 9" Vinyl Floor tile	10% chrysotile
		Associated Yellow Mastic	NAD

Homogeneous Area #6: Blue 9" x 9" Vinyl Floor tile & Associated Mastic (found below carpet at concession)

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-23	Lobby	9" x 9" Vinyl Floor tile	15% chrysotile
		Associated Black Mastic	15% chrysotile
D-24	Corridor	9" x 9" Vinyl Floor tile	15% chrysotile
		Associated Yellow Mastic	NAD

Homogeneous Area #7: Gray 12" x 12" Vinyl Floor tile & Associated Mastic

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-25	Concession Stand	12" x 12" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD
D-26	Concession Stand	12" x 12" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD

Homogeneous Area #8: Beige 4" x 4" Vinyl Floor tile & Associated Mastic

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-27	1 st Flr. Storage	4" x 4" Vinyl Floor tile	3% chrysotile
D-28	1 st Flr. Storage	4" x 4" Vinyl Floor tile	3% chrysotile

Homogeneous Area #9: Maroon 4" x 4" Vinyl Floor tile & Associated Mastic

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-29	1 st Flr. Storage	4" x 4" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD
D-30	1 st Flr. Storage	4" x 4" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD

Homogeneous Area #10: Gray 12" x 12" Vinyl Floor tile & Associated Mastic

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-31	Game Room	12" x 12" Vinyl Floor tile	4% chrysotile
		Associated Black Mastic	10% chrysotile
D-32	Game Room	12" x 12" Vinyl Floor tile	NAD
		Associated Black Mastic	10% chrysotile

Homogeneous Area #11: Gray Vinyl Base Molding & Associated Mastic

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-33	Concession Stand	Vinyl Base Molding	NAD
		Associated Beige Mastic	NAD
D-34	Concession Stand	Vinyl Base Molding	NAD
		Associated Beige Mastic	NAD

Homogeneous Area #12: Brown 1' x 1' Ceiling tile

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-35	Booth - Front	1' x 1' Ceiling tile	NAD
D-36	Booth - Front	1' x 1' Ceiling tile	NAD

Homogeneous Area #13: Beige 12" x 12" Vinyl Floor tile & Associated Mastic

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-37	2 nd Flr. Projection Tht. 1	12" x 12" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD
D-38	2 nd Flr. Projection Tht. 1	12" x 12" Vinyl Floor tile	NAD
		Associated Black Mastic	NAD

Homogeneous Area #14: Joint Compound

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-39	Lobby	Joint Compound	NAD
D-40	Theater 2	Joint Compound	NAD

Homogeneous Area #15: Gypsum Wallboard

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-41	Lobby	Gypsum Wallboard	NAD
D-42	Theater 2	Gypsum Wallboard	NAD

Homogeneous Area #16: Ceramic Tile Grout

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-43	Men's Restroom	Ceramic Tile Grout	NAD
D-44	Ladies Restroom	Ceramic Tile Grout	NAD

New Dixie Theater**Page 4****Asbestos Materials Inspection****Homogeneous Areas, Description, Results & Locations (listed by HA #)**

Homogeneous Area #17: Black 2' x 4' Ceiling tile

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-45	Theater 2	2' x 4' Ceiling tile	NAD
D-46	Theater 1	2' x 4' Ceiling tile	NAD

Homogeneous Area #18: White 2' x 4' Ceiling tile

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-47	2 nd Flr. Projection Tht. 2	2' x 4' Ceiling tile	NAD
D-48	2 nd Flr. Projection Tht. 2	2' x 4' Ceiling tile	NAD
D-49	1 st Flr. Storage	2' x 4' Ceiling tile	NAD

Homogeneous Area #19: White Vibration Dampener

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-50	2 nd Flr. Projection Tht. 3	Vibration Dampener	75% chrysotile

Homogeneous Area #20: Beige HVAC Duct Mastic

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-51	2 nd Flr. Projection Tht. 3	HVAC Duct Mastic	NAD
D-52	2 nd Flr. Projection Tht. 3	HVAC Duct Mastic	NAD

Homogeneous Area #21: Beige Window and Door Caulking

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-53	Exterior – Front	Window & Door Caulking	NAD
D-54	Exterior – Front	Window & Door Caulking	10% chrysotile

Homogeneous Area #22: Beige Window Glazing

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-55	Exterior – Front	Window Glazing	NAD
D-56	Exterior – Front	Window Glazing	NAD

Homogeneous Area #23: Beige Troweled Wall Texture

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-65	Basement Entrance	Troweled Textured Wall Plaster	NAD
D-66	Hall @ Basement	Troweled Textured Wall Plaster	NAD

Homogeneous Area #24: White Ceiling Spackling

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-67	Hall @ Basement	Ceiling Spackling	NAD
D-68	Hall @ Basement	Ceiling Spackling	NAD

Homogeneous Area #25: Brown and Gold Curtains

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-69	Backstage	Curtains	NAD
D-70	Backstage	Curtains	NAD

Homogeneous Area #26: Brown and Maroon Curtain Valances

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-71	Backstage	Valences	NAD
D-72	Backstage	Valences	NAD

Homogeneous Area #27: Gray Thermal System Insulation – Straight Run (Corrugated)

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-73	Hot Water Radiator Spl.	Thermal System Insulation Straight Run	85% chrysotile
D-78	Boiler Room – Main Line	Thermal System Insulation Straight Run	20% chrysotile

Homogeneous Area #28: Gray Thermal System Insulation – Batts

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-74	Boiler Room	Thermal System Insulation Batts	55% chrysotile
D-75	Boiler	Thermal System Insulation Batts	70% chrysotile
D-76	Boiler Room - Flue	Thermal System Insulation Batts	NAD

Homogeneous Area #29: Black Rope Gasket

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-77	Boiler Room	Rope Gasket	65% chrysotile

Homogeneous Area #30: Gray Thermal System Insulation

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-79	Boiler Room – Cold Water Supply	Thermal System Insulation Straight Run	55% chrysotile
D-80	Compressor Room	Thermal System Insulation Straight Run	5% chrysotile

Homogeneous Area #31: Gray Thermal System Insulation – Mud Fittings

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-81	Boiler Room – Cold	Thermal System Insulation Mud Fittings	75% chrysotile
D-82	Boiler Room – Valve	Thermal System Insulation Mud Fittings	75% chrysotile

Homogeneous Area #32: Vibration Gasket

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-83	Blower Room	Vibration Dampener	NAD
D-84	Compressor Room	Vibration Dampener	NAD

Homogeneous Area #33: Duct Lining

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-85	Fan Room – inside duct	Duct Lining	NAD
D-86	Fan Room – inside duct	Duct Lining	NAD

Homogeneous Area #34: Wiring

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-89	Basement	Wiring	NAD
D-90	Basement	Wiring	NAD

Homogeneous Area #35: Vinyl Sheet Flooring

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-91	2 nd Flr. Projection	Vinyl Sheet Flooring	NAD
D-92	2 nd Flr. Projection	Vinyl Sheet Flooring	NAD

Homogeneous Area #36: HVAC Duct Insulation (Corrugated)

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-93	Attic	HVAC Duct Insulation	65% chrysotile
D-94	Attic	HVAC Duct Insulation	65% chrysotile

New Dixie Theater**Page 7****Asbestos Materials Inspection****Homogeneous Areas, Description, Results & Locations (listed by HA #)**

Homogeneous Area #37: 2' x 4' Sheet Ceiling

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-95	Attic	2' x 4' Sheet Ceiling	NAD
D-96	Attic	2' x 4' Sheet Ceiling	NAD

Homogeneous Area #38: White and Black Decorative Radiator Plaster

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-97	Theater 1 – Heat unit	Decorative Radiator Plaster	NAD
D-98	Theater 1 – Heat unit lead	Decorative Radiator Plaster	NAD

Homogeneous Area #39: Plaster on Angle Iron

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-100	Attic	Plaster on Angle Iron	NAD

Homogeneous Area #40: Troweled Cement on Air Plenum

<u>Sa #</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-102	Backstage	Troweled Cement on Air Plenum	NAD

Homogeneous Area #41: Fire Doors

<u>Location</u>	<u>Description</u>	<u>Results</u>
Boiler Room	Fire Doors	ASSUMED

Homogeneous Area #42: Brown Coat Plaster Only

<u>Sa#</u>	<u>Location</u>	<u>Description</u>	<u>Results</u>
D-101	Attic	Brown Coat Plaster	NAD

Homogeneous Area #43: Older lighting fixtures - Heat Shields

<u>Location</u>	<u>Description</u>	<u>Results</u>
Throughout	Heat Shields	ASSUMED

Owner: Marney Gibbs
Location: New Dixie Theater
Address: 125 East Beverly Street
Staunton, VA
Inspector: Chance Famuliner
Signature:

- 1) Damaged or significantly damaged thermal system insulation ACM.
- 2) Damaged friable surfacing ACM.
- 3) Significantly damaged friable surfacing ACM.
- 4) Damaged or significantly damaged friable miscellaneous ACM.
- 5) ACBM with potential for damage
- 6) ACBM with potential for significant damage.
- 7) Any remaining friable ACBM or friable suspected ACBM.

F/S = Functional Space
H/A = Homogeneous Area # & Description

Owner: Marney Gibbs
Location: New Dixie Theater
Address: 125 East Beverly Street
Staunton, VA
Inspector: Chance Famuliner
Signature:

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- 3) Significantly damaged friable surfacing ACM.
- 4) Damaged or significantly damaged friable miscellaneous ACM.
- 5) ACBM with potential for damage
- 6) ACBM with potential for significant damage.
- 7) Any remaining friable ACBM or friable suspected ACBM.

1. TSI
2. Surfacing
3. Miscellaneous
4. Assumed ACBM
5. Sample/Tested
6. Non ACBM
7. ACBM
8. Non-friable
9. Friable

10. No damage
11. Damage
12. Deterioration
13. Physical
14. Water
15. Other
16. Under 10%
17. Over 10%
18. Local
19. Distributed

20. Low
21. Medium
22. High

23. Low
24. Medium
25. High

F/S	F/S	F/S	F/S
Lobby, Corridor	Lobby, Corridor	Concession	1st Flr. Storage
H/A#5	H/A#6	H/A#7	H/A#8
Black	Blue	Gray	Beige
9" x 9"	9" x 9"	12" x 12"	4" x 4"
Floor tile	Floor tile	Floor tile	Floor tile
14/2001	8/14/2001	8/14/2001	8/14/2001
X	X	X	X
X	X	X X	X
X	X		X
X	X		X
N/A	N/A	N/A	N/A

H/A = Homogeneous Area # & Description

Signature: C. Farnine

25. High

H/A = Homogeneous Area # & Description

F/S	F/S	F/S	F/S
1st Flr.	Game	Concession	Front Booth
Storage	Room		
H/A#9	H/A#10	H/A#11	H/A#12
4" x 4"	12" x 12"	Vinyl Base	1' x 1'
Floor tile	Floor tile		Ceiling tile
8/14/2001	8/14/2001	8/14/2001	8/14/2001
X	X	X	X
X	X	X	X
X		X	X
	X		
	X		
N/A	N/A	N/A	N/A

Owner: Marney Gibbs
Location: New Dixie Theater
Address: 125 East Beverly Street
Staunton, VA
Inspector: Chance Famuliner
Signature:

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- 3) Significantly damaged friable surfacing ACM.
- 4) Damaged or significantly damaged friable miscellaneous ACM.
- 5) ACBM with potential for damage
- 6) ACBM with potential for significant damage.
- 7) Any remaining friable ACBM or friable suspected ACBM.

8. Non-friable
9. Friable

Response Action Implemented Since 1988

23. Low
24. Medium
25. High

F/S = Functional Space
H/A = Homogeneous Area # & Description

F/S	F/S	F/S	F/S
Projection Room	Lobby, Theater	Lobby, Theater	Restrooms
H/A#13	H/A#14	H/A#15	H/A#16
12" x 12"	Joint	Gypsum	Ceramic
Floor tile	Compound	Wallboard	Tile Grout
8/14/2001	8/14/2001	8/14/2001	8/14/2001
X	X	X	X
X	X	X	X
X	X	X	X
N/A	N/A	N/A	N/A

Owner: Marney Gibbs
Location: New Dixie Theater
Address: 125 East Beverly Street
Staunton, VA
Inspector: Chance Famuliner
Signature: *C. Famuliner*

F/S = Functional Space
H/A = Homogeneous Area # & Description

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Inspector: Chance Famuliner
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1. TSI
2. Surfacing
3. Miscellaneous
4. Assumed ACBM
5. Sample/Tested
6. Non ACBM
7. ACBM
8. Non-friable
9. Friable

10. No damage
11. Damage
12. Deterioration
13. Physical
14. Water
15. Other
16. Under 10%
17. Over 10%
18. Local
19. Distributed

20. Low
21. Medium
22. High

23. Low
24. Medium
25. High

F/S = Functional Space
H/A = Homogeneous Area # & Description

[illegible]

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Staunton, VA
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3. Miscellaneous
4. Assumed ACBM
5. Sample/Tested
6. Non ACBM
7. ACBM
8. Non-friable
9. Friable

10. No damage
11. Damage
12. Deterioration
13. Physical
14. Water
15. Other
16. Under 10%
17. Over 10%
18. Local
19. Distributed

20. Low
21. Medium
22. High

23. Low
24. Medium
25. High

F/S	F/S	F/S	F/S
Fan Room	Basement	Projection Room	Attic
H/A#33	H/A#34	H/A#35	H/A#36
Duct Lining	Wiring	Sheet Vinyl Flooring	HVAC Duct Insulation (Aircell)
8/14/2001	8/14/2001	8/14/2001	8/14/2001
X			X
	X	X	
X	X	X	X
X	X	X	
			X
			X
			X
			X
			X
			X
			X
			X
N/A	N/A	N/A	1

H/A = Homogeneous Area # & Description

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- 6) ACBM with potential for significant damage.
- 7) Any remaining friable ACBM or friable suspected ACBM.

10. No damage
11. Damage
12. Deterioration
13. Physical
14. Water
15. Other
16. Under 10%
17. Over 10%
18. Local
19. Distributed

20. Low
21. Medium
22. High

23. Low
24. Medium
25. High

F/S = Functional Space
H/A = Homogeneous Area # & Description

F/S	F/S	F/S	F/S
Backstage	Backstage	Boiler Room	Boiler Room
H/A#25	H/A#26	H/A#27	H/A#28
Curtains	Valences	Pipe	Pipe
		Insulation	Insulation
		Straight Run (Aircell)	Batts
8/14/2001	8/14/2001	8/14/2001	8/14/2001
		X	X
X	X		
X	X	X	X
X	X		
		X	X
		X	X
		X	X
		X	X
		X	X
		X	X
		X	X
		X	X
N/A	N/A	1	1

Owner: Marney Gibbs
Location: New Dixie Theater
Address: 125 East Beverly Street
Staunton, VA
Inspector: Chance Famuliner
Signature:

F/S = Functional Space
H/A = Homogeneous Area # & Description

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1. TSI
2. Surfacing
3. Miscellaneous
4. Assumed ACBM
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- Response Action Implemented Since 1988*
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14. Water
15. Other
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18. Local
19. Distributed

20. Low
21. Medium
22. High

23. Low
24. Medium
25. High

F/S	F/S	F/S	F/S
Attic	Theater 1	Attic	Backstage
H/A#37	H/A#38	H/A#39	H/A#40
2' x 4'	Decorative	Plaster	Cement
Sheet	Radiator	on angle	
Ceiling	Plaster	iron	
8/14/2001	8/23/2001	8/23/2001	8/23/2001
	X	X	X
X			
X	X	X	
X	X	X	X
N/A	N/A	N/A	N/A

H/A = Homogeneous Area # & Description

Owner: Marney Gibbs
Location: New Dixie Theater
Address: 125 East Beverly Street
Staunton, VA
Inspector: Chance Famuliner
Signature:

F/S = Functional Space
H/A = Homogeneous Area # & Description

RECOMMENDED RESPONSE ACTIONS

FOR ASBESTOS INSPECTION

Owner: Marney Gibbs

Location: New Dixie Theater

Address: 125 East Beverly Street

Staunton, VA

Management Planner: Kristin Hatcher

Signature: *Kristen Hester*

ASSESSMENT CATEGORIES:

1) Damaged or significantly damaged thermal system insulation ACM.

2) Damaged friable surfacing ACM.

3) Significantly damaged friable surfacing ACM.

4) Damaged or significantly damaged friable miscellaneous ACM.

5) ACBM with potential for damage

6) ACBM with potential for significant damage.

7) Any remaining friable ACBM or friable suspected ACBM.

Inspection Date:

Assessment Category:

Recommended Response Action:

F/S	F/S	F/S	F/S
Theaters, Lobby	Theaters, 2nd Flr. passage	Lobby, Corridor	Lobby, Corridor
H/A#1	H/A#3	H/A#5	H/A#6
Textured Ceiling Plaster	Textured Wall Plaster	Black 9" x 9" Floor tile	Blue 9" x 9" Floor tile
8/14/2001	8/14/2001	8/14/2001	8/14/2001
2	2	N/A	N/A
C-1, C-2 C-3, C-4	C-1, C-2 C-3, C-4		

The response action selected shall be sufficient to protect human health and the environment.

Legend - Recommended Response Action:

B-1 REPAIR

B-2 REMOVE

B-3 MAINTAIN

C-1 ENCAPSULATE

C-2 ENCLOSE

C-3 REMOVE

C-4 REPAIR

D-1 ISOLATE

D-2 REMOVE

E-1 IMPLEMENT O&M

F-1 IMPLEMENT O&M

F-2 PREVENT DAMAGE

F-3 REMOVE

See back page of this section for additional information

RECOMMENDED RESPONSE ACTIONS	F/S	F/S	F/S	F/S
FOR ASBESTOS INSPECTION	1st Flr.	Game	Projection	Exterior
Owner: Marney Gibbs	Storage	Room	Room	
Location: New Dixie Theater				
Address: 125 East Beverly Street				
Staunton, VA				
Management Planner: Kristin Hatcher				
Signature: <i>Kristin Hatcher</i>				
ASSESSMENT CATEGORIES:				
1) Damaged or significantly damaged thermal system insulation ACM.				
2) Damaged friable surfacing ACM.				
3) Significantly damaged friable surfacing ACM.	H/A#8	H/A#10	H/A#19	H/A#21
4) Damaged or significantly damaged friable miscellaneous ACM.	Beige	12" x 12"	Vibration	Window &
5) ACBM with potential for damage	4" x 4"	Floor tile	Dampener	Door
6) ACBM with potential for significant damage.	Floor tile			Caulking
7) Any remaining friable ACBM or friable suspected ACBM.				
Inspection Date:	8/14/2001	8/14/2001	8/14/2001	8/14/2001
Assessment Category:	N/A	N/A	N/A	N/A
Recommended Response Action:				

The response action selected shall be sufficient to protect human health and the environment.

Legend - Recommended Response Action:

- B-1 REPAIR
- B-2 REMOVE
- B-3 MAINTAIN
- C-1 ENCAPSULATE
- C-2 ENCLOSE
- C-3 REMOVE
- C-4 REPAIR
- D-1 ISOLATE
- D-2 REMOVE
- E-1 IMPLEMENT O&M
- F-1 IMPLEMENT O&M
- F-2 PREVENT DAMAGE
- F-3 REMOVE

See back page of this section for additional information

RECOMMENDED RESPONSE ACTIONS	F/S	F/S	F/S	F/S
FOR ASBESTOS INSPECTION	Boiler Room	Boiler Room	Boiler Room	Boiler Room
Owner: Marney Gibbs				Compressor
Location: New Dixie Theater				Room
Address: 125 East Beverly Street				
Staunton, VA				
Management Planner: Kristin Hatcher				
Signature: <i>Kristin Hatcher</i>				
ASSESSMENT CATEGORIES:				
1) Damaged or significantly damaged thermal system insulation ACM.				
2) Damaged friable surfacing ACM.				
3) Significantly damaged friable surfacing ACM.	H/A#27	H/A#28	H/A#29	H/A#30
4) Damaged or significantly damaged friable miscellaneous ACM.	Pipe	Pipe	Rope	Pipe
5) ACBM with potential for damage	Insulation	Insulation	Gasket	Insulation
6) ACBM with potential for significant damage.	Straight Run	Batts		
7) Any remaining friable ACBM or friable suspected ACBM.	(Corrugated)			
Inspection Date:	8/14/2001	8/14/2001	8/14/2001	8/14/2001
Assessment Category:	1	1	4	1
Recommended Response Action:	B-1, B-2	B-1, B-2	D-1, D-2	B-1, B-2
	B-3	B-3		B-3

The response action selected shall be sufficient to protect human health and the environment.

Legend - Recommended Response Action:

B-1 REPAIR
 B-2 REMOVE
 B-3 MAINTAIN
 C-1 ENCAPSULATE
 C-2 ENCLOSE
 C-3 REMOVE
 C-4 REPAIR
 D-1 ISOLATE
 D-2 REMOVE
 E-1 IMPLEMENT O&M
 F-1 IMPLEMENT O&M
 F-2 PREVENT DAMAGE
 F-3 REMOVE

See back page of this section for additional information

RECOMMENDED RESPONSE ACTIONS	F/S	F/S	F/S	F/S
FOR ASBESTOS INSPECTION	Boiler Room	Attic	Boiler Room	Throughout
Owner: Marney Gibbs				
Location: New Dixie Theater				
Address: 125 East Beverly Street				
Staunton, VA				
Management Planner: Kristin Hatcher				
Signature: <i>Kristin Hatcher</i>				
ASSESSMENT CATEGORIES:				
1) Damaged or significantly damaged thermal system insulation ACM.				
2) Damaged friable surfacing ACM.				
3) Significantly damaged friable surfacing ACM.				
4) Damaged or significantly damaged friable miscellaneous ACM.				
5) ACBM with potential for damage				
6) ACBM with potential for significant damage.				
7) Any remaining friable ACBM or friable suspected ACBM.				
Inspection Date:	8/14/2001	8/14/2001	8/14/2001	8/23/2001
Assessment Category:	1	1	N/A	N/A
Recommended Response Action:	B-1, B-2	B-1, B-2		
	B-3	B-3		

The response action selected shall be sufficient to protect human health and the environment.

Legend - Recommended Response Action:

B-1 REPAIR
 B-2 REMOVE
 B-3 MAINTAIN
 C-1 ENCAPSULATE
 C-2 ENCLOSE
 C-3 REMOVE
 C-4 REPAIR
 D-1 ISOLATE
 D-2 REMOVE
 E-1 IMPLEMENT O&M
 F-1 IMPLEMENT O&M
 F-2 PREVENT DAMAGE
 F-3 REMOVE

See back page of this section for additional information

RESPONSE ACTION DEFINITIONS

(cfr 763.90)

B) If damaged or significantly damaged thermal system insulation ACM is present in a building, the Owner shall:

1. Repair
2. Remove
3. Maintain

C) If damaged friable surfacing ACM or damaged friable miscellaneous ACM is present in a building, the Owner shall:

1. Encapsulate
2. Enclose
3. Remove
4. Repair

D) If significantly damaged friable surfacing ACM or significantly damaged friable miscellaneous ACM is present in a building, the Owner shall:

1. Isolate
2. Remove

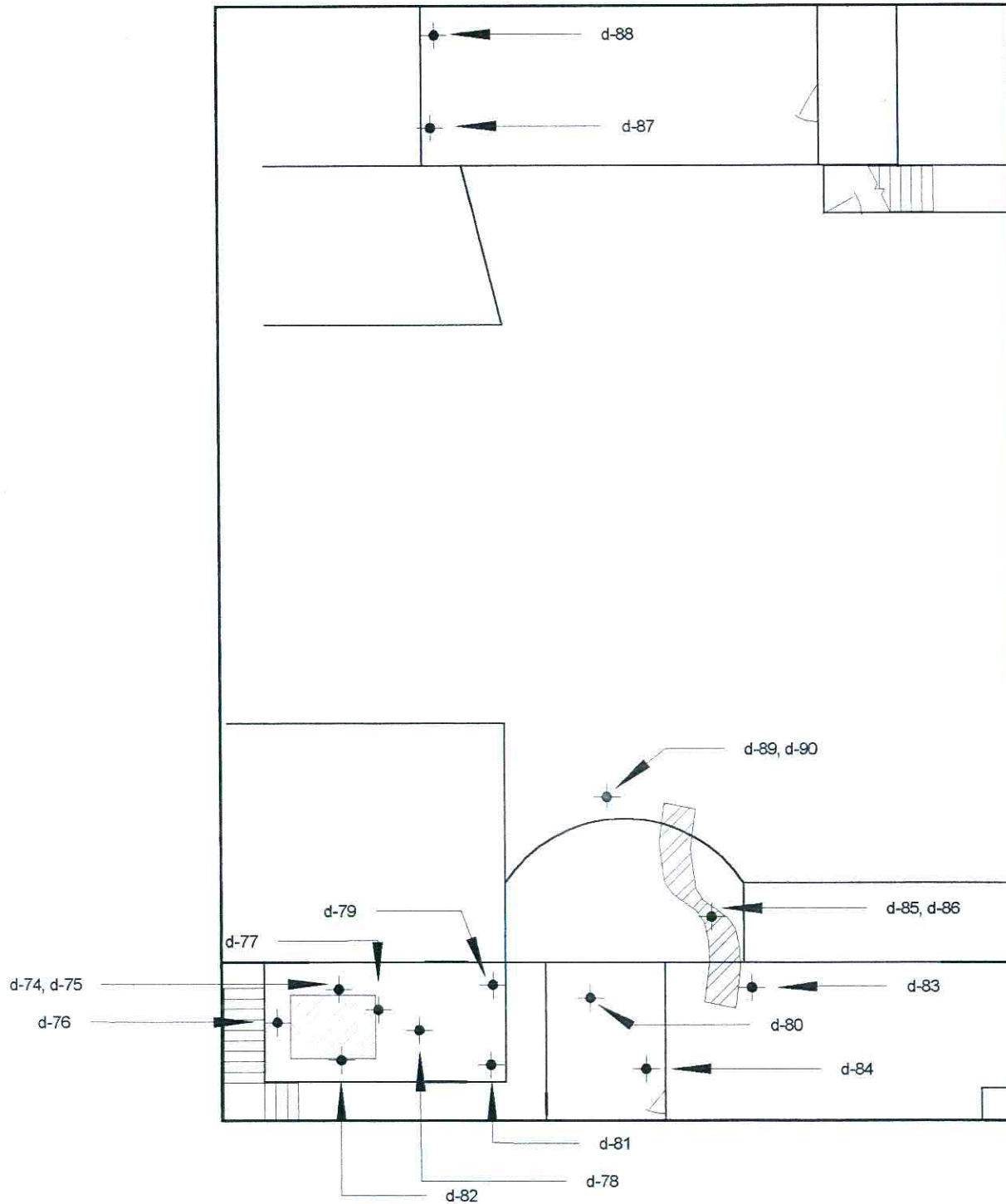
E) If any friable surfacing ACM, thermal system insulation, or friable miscellaneous ACM that has potential for damage is present in a building, the Owner shall:

1. Implement O&M

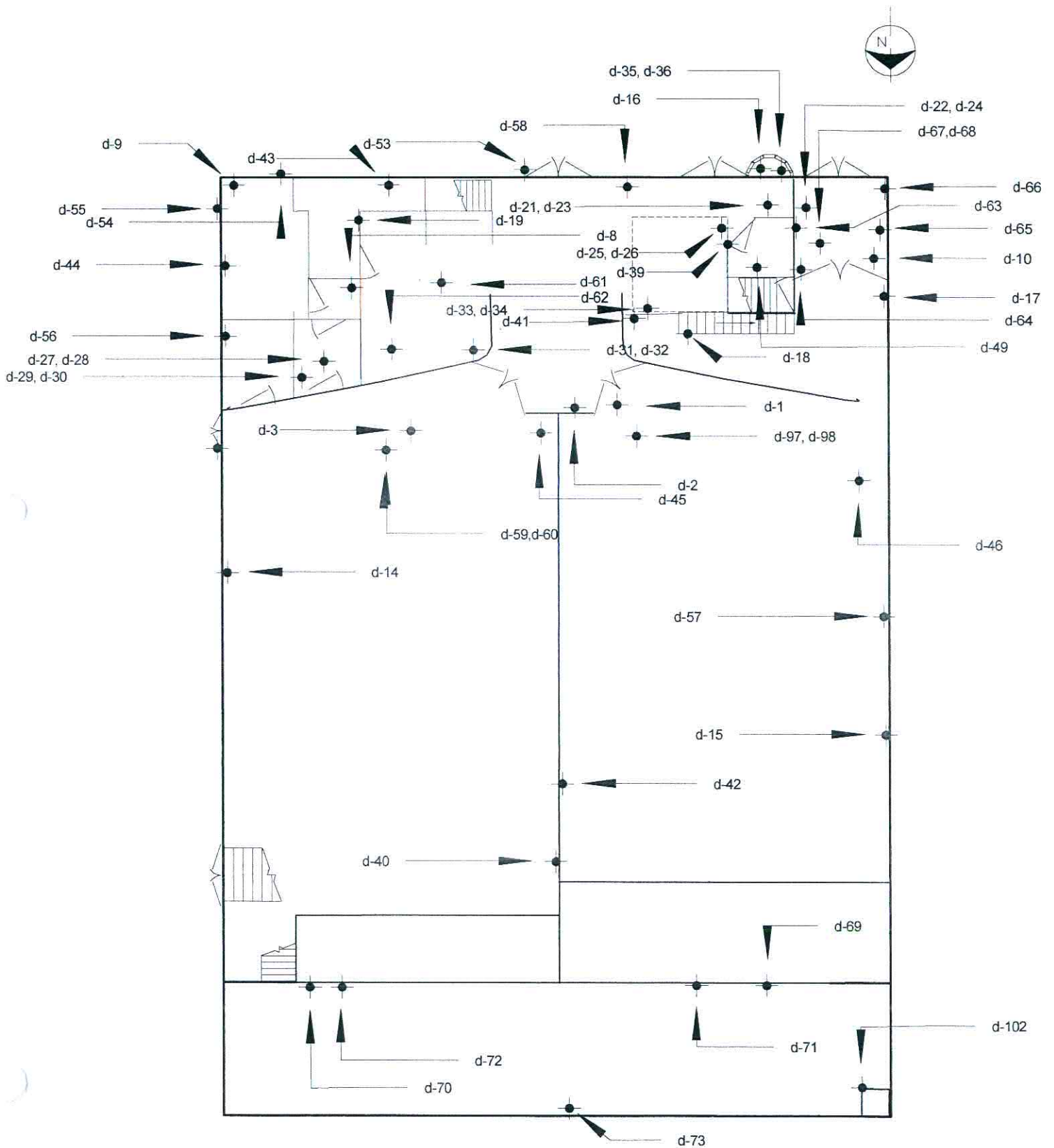
F) If any friable surfacing ACM, thermal system insulation, or friable miscellaneous ACM that has potential for significant damage is present in a building, the Owner shall:

1. Implement O&M
2. Prevent Damage
3. Remove

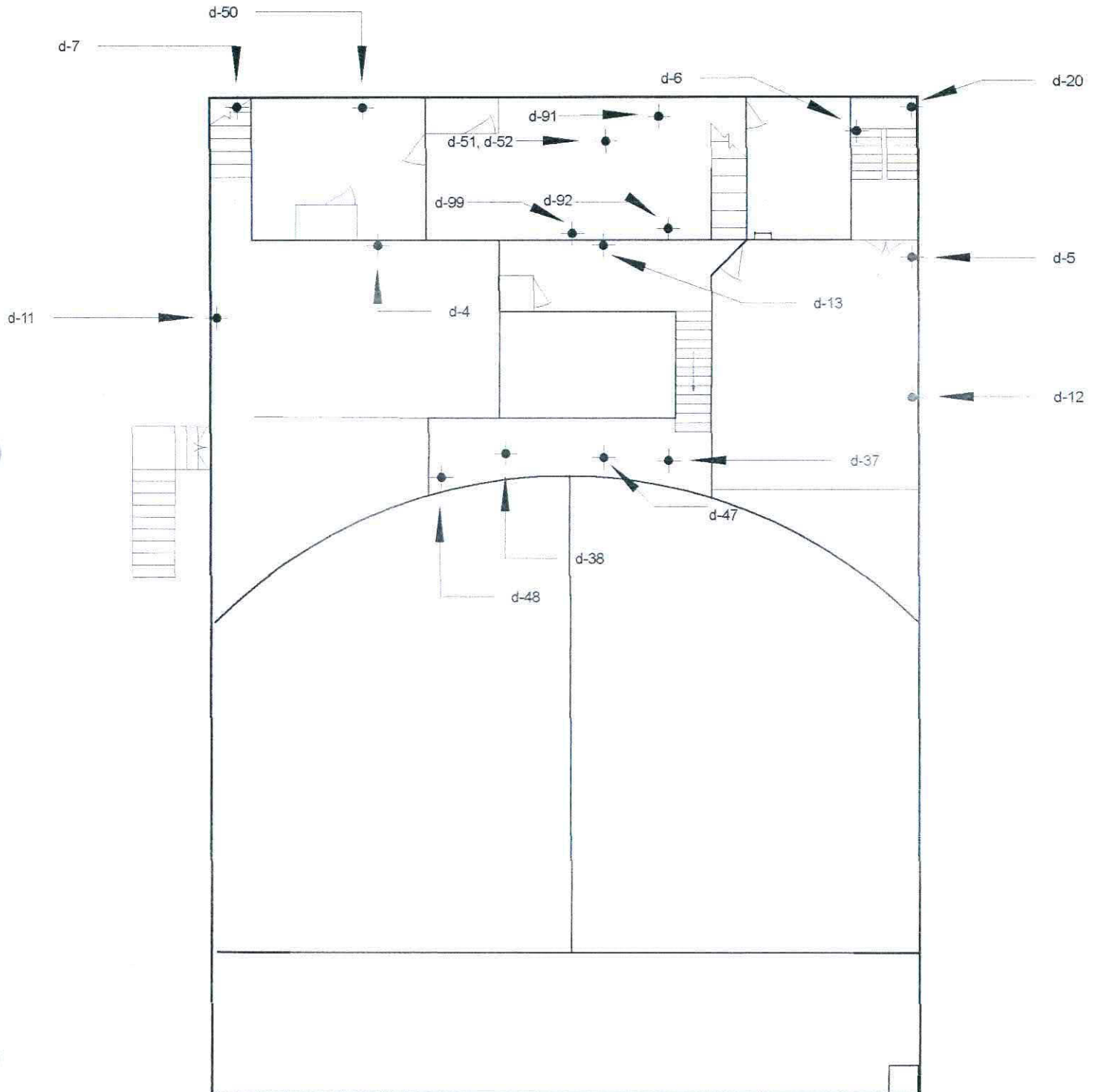
Asbestos Material Inspection
Sampling Locations - Basement Floor Plan
New Dixie Theater
125 E Bverley St.
Staunton, VA
(not to scale)

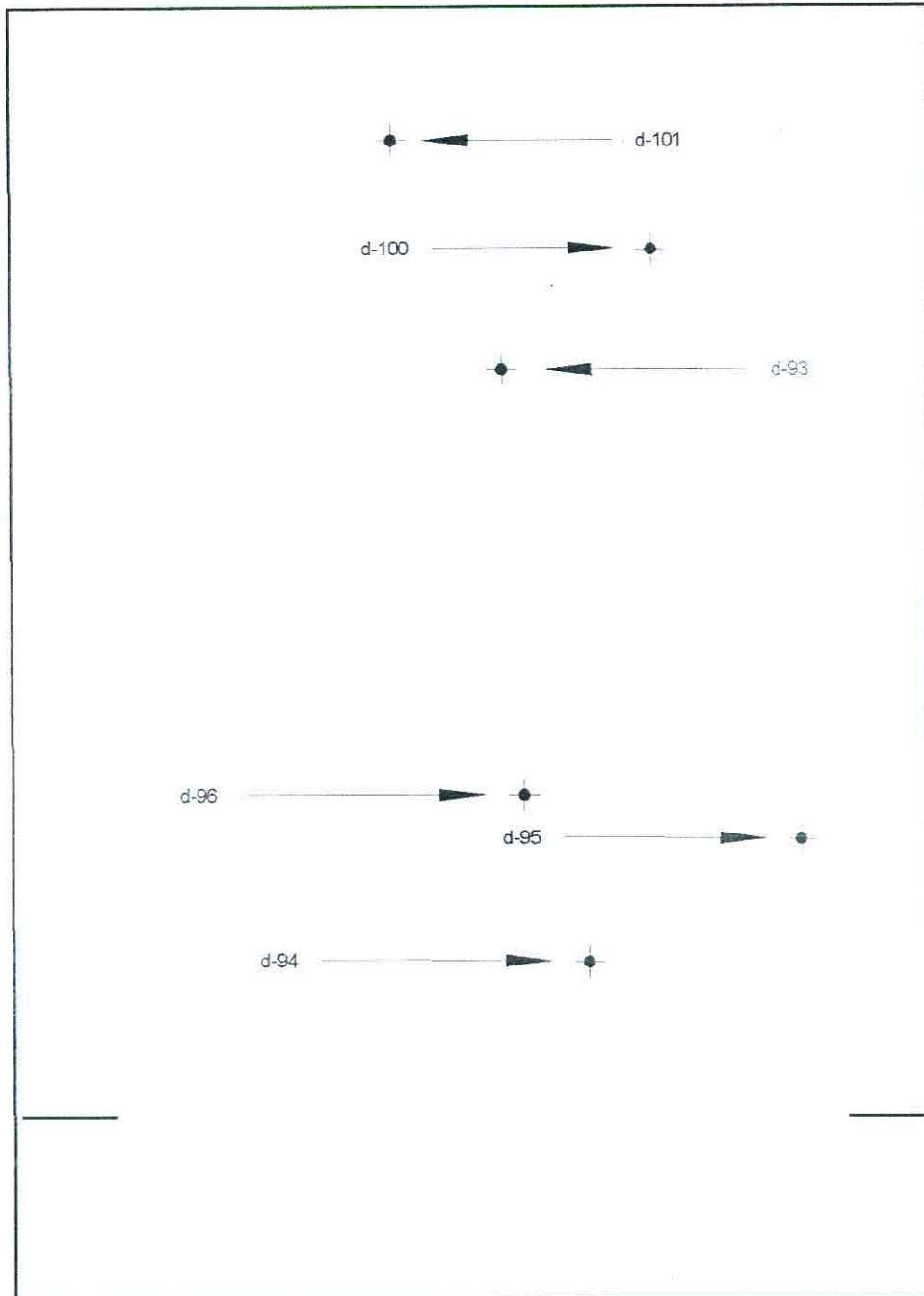


Asbestos Materials Inspection
Sampling Locations - First Floor
New Dixie Theater
125 E Beverley St.
Staunton, VA
(not to scale)



Asbestos Materials Inspection
Sampling Locations - Balcony Floor Plan
New Dixie Theater
125 E Beverley St.
Staunton, VA
(not to scale)





August 20, 2001

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493Unexpected Road
Lexington, VA 24450

RE: Palmer Asbestest, Inc.
Job Number 101081721
P.O. # New Dixie Theater
New Dixie Theater; PO Box 571
Staunton, VA 24401

Dear Chance Famuliner:

Enclosed are the results for PLM asbestos analysis of the following Palmer Asbestest, Inc. samples received at SCILAB on Saturday, August 18, 2001, for a 48 hour turnaround:

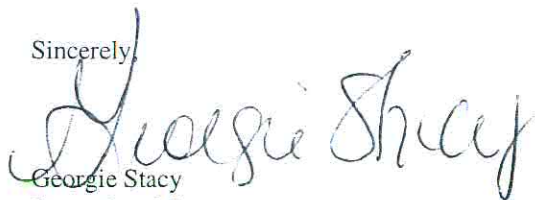
D-1, D-2, D-3, D-4, D-5, D-6, D-7, D-8, D-9, D-10, D-11, D-12, D-13, D-14, D-15, D-16, D-17, D-18, D-19, D-20, D-21, D-22, D-23, D-24, D-25, D-26, D-27, D-28, D-29, D-30, D-31, D-32, D-33, D-34, D-35, D-36, D-37, D-38, D-39, D-40, D-41, D-42, D-43, D-44, D-45, D-46, D-47, D-48, D-49, D-50, D-51, D-52, D-53, D-54, D-55, D-56, D-57, D-58, D-59, D-60, D-61, D-62, D-63, D-64, D-65, D-66, D-67, D-68, D-69, D-70, D-71, D-72, D-73, D-74, D-75, D-76, D-77, D-78, D-79, D-80, D-81, D-82, D-83, D-84, D-85, D-86, D-87, D-88, D-89, D-90, D-91, D-92, D-93, D-94, D-95, D-96

The 96 samples contained in zip lock bag were shipped to SciLab via UPS. These samples were prepared and analyzed according to the EPA Interim Method (EPA 600/M4-82-020 per 40 CFR 763, subpt F, App. A). The required analytical information, analysis results, analyst signature and laboratory identification is contained in the Analyst's Report.

This report relates ONLY to the sample analysis expressed as percent asbestos. SciLab assumes no responsibility for customer supplied data such as "sample type", "location", or "area sampled". This report must not be used to claim product endorsement by SciLab, NVLAP or any agency of the U. S. Government. The National Institute of Standards and Technology Accreditation requirements, mandates that this report must not be reproduced, except in full without the written approval of the laboratory. This report may contain specific data not covered by NVLAP or ELAP accreditations respectively, if so identified in relevant footnotes.

SciLab appreciates this opportunity to serve your organization. Please contact us for any further assistance or with any questions.

Sincerely,


Georgie Stacy
Operations Manager

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493 Unexpected Road
Lexington, VA 24450

Date Received 08/18/2001 **SciLab Job No.** 101081721
Date Examined 08/20/2001 **P.O. #** New Dixie Theater
Page 1 of 26
RE: New Dixie Theater; PO Box 571
Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-1	101081721-01	Yes	7 %
Location:			
Description: Pink/Brown, Homogeneous, Bulk Material			
Asbestos Types: Chrysotile 7. %			
Other Material: Cellulose Trace, Non-fibrous 93. %			
D-2	101081721-02	Yes	7 %
Location:			
Description: White/Beige, Homogeneous, Bulk Material			
Asbestos Types: Chrysotile 7. %			
Other Material: Non-fibrous 93. %			
D-3	101081721-03	Yes	7 %
Location:			
Description: White/Beige, Homogeneous, Bulk Material			
Asbestos Types: Chrysotile 7. %			
Other Material: Non-fibrous 93. %			
D-4	101081721-04	Yes	7 %
Location:			
Description: Pink/Beige, Heterogeneous, Bulk Material			
Asbestos Types: Chrysotile 7. %			
Other Material: Non-fibrous 93. %			
D-5	101081721-05	Yes	6 %
Location:			
Description: Pink/Beige, Homogeneous, Bulk Material			
Asbestos Types: Chrysotile 6. %			
Other Material: Cellulose Trace, Non-fibrous 94. %			

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493 Unexpected Road
Lexington, VA 24450

Date Received 08/18/2001 **SciLab Job No.** 101081721
Date Examined 08/20/2001 **P.O. #** New Dixie Theater
Page 2 of 26
RE: New Dixie Theater; PO Box 571
Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-6	101081721-06	No	NAD

Location:

Description: White/Grey, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose Trace, Non-fibrous 100. %

D-7	101081721-07	No	NAD
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Location:

Description: White/Grey, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 2. %, Fibrous glass Trace, Non-fibrous 98. %

D-8	101081721-08	No	NAD
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Location:

Description: White/Tan, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Non-fibrous 100. %

D-9	101081721-09	No	NAD
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Location:

Description: White/Beige, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose Trace, Non-fibrous 100. %

D-10	101081721-10	No	NAD
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Location:

Description: White/Beige, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Non-fibrous 100. %

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493Unexpected Road
Lexington, VA 24450

Date Received 08/18/2001 **SciLab Job No.** 101081721
Date Examined 08/20/2001 **P.O. #** New Dixie Theater
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RE: New Dixie Theater; PO Box 571
Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-11	101081721-11	Yes	4 %

Location:

Description: Pink/Green, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 4. %
Other Material: Non-fibrous 96. %

D-12	101081721-12	Yes	3 %
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Location:

Description: Green/Beige, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 3. %
Other Material: Non-fibrous 97. %

D-13	101081721-13	Yes	7 %
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Location:

Description: Pink/Beige, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 7. %
Other Material: Non-fibrous 93. %

D-14	101081721-14	Yes	7 %
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Location:

Description: Red/Beige, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 7. %
Other Material: Non-fibrous 93. %

D-15	101081721-15	Yes	7 %
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Location:

Description: Pink/Beige, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 7. %
Other Material: Non-fibrous 93. %

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493Unexpected Road
Lexington, VA 24450

Date Received 08/18/2001 **SciLab Job No.** 101081721
Date Examined 08/20/2001 **P.O. #** New Dixie Theater
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RE: New Dixie Theater; PO Box 571
Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-16	101081721-16	No	NAD

Location:

Description: Tan/White, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Non-fibrous 100. %

D-17	101081721-17.1	No	NAD
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Location:

Description: Blue/White, Homogeneous, Skim Coat
Asbestos Types:
Other Material: Non-fibrous 100. %

D-17	101081721-17.2	No	NAD
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Location:

Description: Beige, Homogeneous, Base Coat
Asbestos Types:
Other Material: Cellulose Trace, Non-fibrous 100. %

D-18	101081721-18	Yes	<1. %
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Location:

Description: Pink/Beige, Homogeneous, Bulk Material
Asbestos Types: Chrysotile Trace
Other Material: Cellulose 2. %, Non-fibrous 98. %

D-19	101081721-19	Yes	<1. %
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Location:

Description: Beige, Heterogeneous, Bulk Material
Asbestos Types: Chrysotile Trace
Other Material: Non-fibrous 100. %

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493 Unexpected Road
Lexington, VA 24450**Date Received** 08/18/2001 **SciLab Job No.** 101081721
Date Examined 08/20/2001 **P.O. #** New Dixie Theater
Page 5 of 26
RE: New Dixie Theater; PO Box 571
Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-20	101081721-20	No	NAD
Location:			
Description: White/Beige, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose Trace, Non-fibrous 100. %			
D-21	101081721-21T1	Yes	10 %
Location:			
Description: Black, Homogeneous, Floor Tile			
Asbestos Types: Chrysotile 10. %			
Other Material: Non-fibrous 90. %			
D-21	101081721-21M1	Yes	10 %
Location:			
Description: Black, Homogeneous, Mastic			
Asbestos Types: Chrysotile 10. %			
Other Material: Non-fibrous 90. %			
D-22	101081721-22T1	Yes	10 %
Location:			
Description: Black, Homogeneous, Floor Tile			
Asbestos Types: Chrysotile 10. %			
Other Material: Non-fibrous 90. %			
D-22	101081721-22.2	No	NAD
Location:			
Description: Yellow, Homogeneous, Foam			
Asbestos Types:			
Other Material: Non-fibrous 100. %			

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493 Unexpected Road
Lexington, VA 24450**Date Received** 08/18/2001 **SciLab Job No.** 101081721
Date Examined 08/20/2001 **P.O. #** New Dixie Theater
Page 6 of 26
RE: New Dixie Theater; PO Box 571
Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-23	101081721-23T1	Yes	15 %

Location:**Description:** Green, Homogeneous, Floor Tile
Asbestos Types: Chrysotile 15. %
Other Material: Non-fibrous 85. %

D-23	101081721-23M1	Yes	15 %
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Location:**Description:** Black, Homogeneous, Mastic
Asbestos Types: Chrysotile 15. %
Other Material: Non-fibrous 85. %

D-24	101081721-24T1	Yes	15 %
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Location:**Description:** Green, Heterogeneous, Floor Tile
Asbestos Types: Chrysotile 15. %
Other Material: Non-fibrous 85. %

D-24	101081721-24M1	Yes	15 %
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Location:**Description:** Black, Heterogeneous, Mastic
Asbestos Types: Chrysotile 15. %
Other Material: Non-fibrous 85. %

D-24	101081721-24M2	No	NAD
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Location:**Description:** Yellow, Heterogeneous, Mastic
Asbestos Types:
Other Material: Cellulose 5. %, Synthetic fibers 4. %, Non-fibrous 91. %

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493 Unexpected Road
Lexington, VA 24450

Date Received 08/18/2001 **SciLab Job No.** 101081721
Date Examined 08/20/2001 **P.O. #** New Dixie Theater
Page 7 of 26
RE: New Dixie Theater; PO Box 571
Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-25	101081721-25T1	No	NAD

Location:

Description: Grey, Homogeneous, Floor Tile
Asbestos Types:
Other Material: Non-fibrous 100. %

D-25	101081721-25M1	No	NAD
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Location:

Description: Black, Homogeneous, Mastic
Asbestos Types:
Other Material: Cellulose 12. %, Non-fibrous 88. %

D-26	101081721-26T1	No	NAD
------	----------------	----	-----

Location:

Description: Grey, Homogeneous, Floor Tile
Asbestos Types:
Other Material: Non-fibrous 100. %

D-26	101081721-26M1	No	NAD
------	----------------	----	-----

Location:

Description: Black, Homogeneous, Mastic
Asbestos Types:
Other Material: Cellulose 12. %, Non-fibrous 88. %

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493Unexpected Road
Lexington, VA 24450

Date Received 08/18/2001 **SciLab Job No.** 101081721
Date Examined 08/20/2001 **P.O. #** New Dixie Theater
Page 8 of 26
RE: New Dixie Theater; PO Box 571
Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-27	101081721-27	Yes	3 %

Location:

Description: Yellow, Homogeneous, Floor Tile
Asbestos Types: Chrysotile 3. %
Other Material: Non-fibrous 97. %

Comment: Insufficient mastic for accurate analysis.

D-28	101081721-28	Yes	3 %
------	--------------	-----	-----

Location:

Description: Yellow, Homogeneous, Floor Tile
Asbestos Types: Chrysotile 3. %
Other Material: Non-fibrous 97. %No joint compou

Comment: Insufficient mastic for accurate analysis.

D-29	101081721-29C1	No	NAD
------	----------------	----	-----

Location:

Description: Red, Homogeneous, Vinyl Floor Sheeting
Asbestos Types:
Other Material: Non-fibrous 100. %

D-29	101081721-29M1	No	NAD
------	----------------	----	-----

Location:

Description: Black, Homogeneous, Mastic
Asbestos Types:
Other Material: Non-fibrous 10. %

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493 Unexpected Road
Lexington, VA 24450

Date Received 08/18/2001 **SciLab Job No.** 101081721
Date Examined 08/20/2001 **P.O. #** New Dixie Theater
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RE: New Dixie Theater; PO Box 571
Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-30	101081721-30T1	No	NAD
Location:			
Description: Red, Homogeneous, Floor Tile			
Asbestos Types:			
Other Material: Non-fibrous 100. %			
D-30	101081721-30M1	No	NAD
Location:			
Description: Black, Homogeneous, Mastic			
Asbestos Types:			
Other Material: Non-fibrous 100. %			
D-31	101081721-31T1	Yes	4 %
Location:			
Description: Grey, Homogeneous, Floor Tile			
Asbestos Types: Chrysotile 4. %			
Other Material: Non-fibrous 96. %			
D-31	101081721-31M1	Yes	10 %
Location:			
Description: Black, Homogeneous, Mastic			
Asbestos Types: Chrysotile 10. %			
Other Material: Non-fibrous 90. %			
D-32	101081721-32T1	No	NAD
Location:			
Description: Grey, Homogeneous, Floor Tile			
Asbestos Types:			
Other Material: Non-fibrous 100. %			

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493 Unexpected Road
Lexington, VA 24450

Date Received 08/18/2001 **SciLab Job No.** 101081721
Date Examined 08/20/2001 **P.O. #** New Dixie Theater
Page 10 of 26
RE: New Dixie Theater; PO Box 571
Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-32	101081721-32M1	<i>Yes</i>	10 %
Location:			
Description: Black, Homogeneous, Mastic Asbestos Types: Chrysotile 10. % Other Material: Non-fibrous 90. %			
D-33	101081721-33C1	<i>No</i>	NAD
Location:			
Description: Grey, Homogeneous, Baseboard Asbestos Types: Other Material: Non-fibrous 100. %			
D-33	101081721-33T1	<i>No</i>	NAD
Location:			
Description: White/Beige, Homogeneous, Mastic/Compound Asbestos Types: Other Material: Non-fibrous 100. %			
D-34	101081721-34C1	<i>No</i>	NAD
Location:			
Description: Grey, Homogeneous, Baseboard Asbestos Types: Other Material: Non-fibrous 100. %			
D-34	101081721-34M1	<i>No</i>	NAD
Location:			
Description: White/Beige, Homogeneous, Mastic/Compound Asbestos Types: Other Material: Cellulose 3. %, Non-fibrous 97. %			

PLM Bulk Asbestos Report

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493 Unexpected Road
Lexington, VA 24450

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-35	101081721-35	No	NAD

Location:

Description: Brown, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 98. %, Non-fibrous 2. %

D-36	101081721-36	No	NAD
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Location:

Description: Brown, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 98. %, Non-fibrous 2. %

D-37	101081721-37T1	No	NAD
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Location:

Description: Beige, Homogeneous, Floor Tile
Asbestos Types:
Other Material: Cellulose Trace, Non-fibrous 100. %

D-37	101081721-37M1	No	NAD
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Location:

Description: Yellow, Homogeneous, Mastic
Asbestos Types:
Other Material: Cellulose 7. %, Synthetic fibers 3. %, Non-fibrous 90. %

D-38	101081721-38T1	No	NAD
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Location:

Description: Beige, Homogeneous, Floor Tile
Asbestos Types:
Other Material: Cellulose 2. %, Non-fibrous 98. %

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-38	101081721-38M2	No	NAD

Location:

Description: Yellow, Homogeneous, Mastic
Asbestos Types:
Other Material: Cellulose 5. %, Synthetic fibers 4. %, Non-fibrous 91. %

D-39	101081721-39	No	NAD
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Location:

Description: White/Brown, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 3. %, Non-fibrous 97. %

D-40	101081721-40	No	NAD
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Location:

Description: White/Brown, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 7. %, Non-fibrous 93. %

D-41	101081721-41.1	No	NAD
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Location:

Description: Blue/White, Homogeneous, Joint Compound
Asbestos Types:
Other Material: Non-fibrous 100. %

D-41	101081721-41.2	No	NAD
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Location:

Description: White, Homogeneous, Drywall
Asbestos Types:
Other Material: Cellulose 10. %, Non-fibrous 90. %

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-42	101081721-42	No	NAD

Location:

Description: , Homogeneous, Drywall
Asbestos Types:
Other Material: Cellulose 10. %, Fibrous glass 10. %, Non-fibrous 80. %
Comment: No joint compound material present.

D-43	101081721-43	No	NAD
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Location:

Description: White/Beige, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Non-fibrous 100. %

D-44	101081721-44	No	NAD
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Location:

Description: White/Beige, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Non-fibrous 100. %

D-45	101081721-45	No	NAD
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Location:

Description: Grey, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 30. %, Fibrous glass 50. %, Non-fibrous 20. %

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-46	101081721-46	No	NAD

Location:

Description: Grey, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 30. %, Fibrous glass 50. %, Non-fibrous 20. %

D-47	101081721-47	No	NAD
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Location:

Description: Grey, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 30. %, Fibrous glass 50. %, Non-fibrous 20. %

D-48	101081721-48	No	NAD
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Location:

Description: White/Grey, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 30. %, Fibrous glass 50. %, Non-fibrous 20. %

D-49	101081721-49	No	NAD
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Location:

Description: White/Grey, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 30. %, Fibrous glass 50. %, Non-fibrous 20. %

D-50	101081721-50	Yes	75 %
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Location:

Description: White/Beige, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 75. %
Other Material: Cellulose 20. %, Non-fibrous 5. %

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-51	101081721-51.1	No	NAD
Location:			
Description: White, Homogeneous, Caulking			
Asbestos Types:			
Other Material: Cellulose 15. %, Non-fibrous 85. %			
D-51	101081721-51.2	No	NAD
Location:			
Description: Brown, Homogeneous, Paint			
Asbestos Types:			
Other Material: Non-fibrous 100. %			
D-52	101081721-52.1	No	NAD
Location:			
Description: White, Homogeneous, Caulking			
Asbestos Types:			
Other Material: Cellulose 15. %, Non-fibrous 85. %			
D-52	101081721-52.2	No	NAD
Location:			
Description: Brown, Homogeneous, Paint			
Asbestos Types:			
Other Material: Non-fibrous 100. %			
D-53	101081721-53	No	NAD
Location:			
Description: Black/Red/Blue, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Synthetic fibers 3. %, Non-fibrous 97. %			

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-54	101081721-54	Yes	10 %

Location:

Description: Red/Brown, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 10. %
Other Material: Non-fibrous 90. %

D-55	101081721-55	No	NAD
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Location:

Description: Red/Brown/Black, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Non-fibrous 100. %

D-56	101081721-56	No	NAD
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Location:

Description: Red/Brown/Black, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Non-fibrous 100. %

D-57	101081721-57	Yes	7 %
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Location:

Description: Pink/Beige, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 7. %
Other Material: Non-fibrous 93. %

D-58	101081721-58	No	NAD
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Location:

Description: Blue/White, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Non-fibrous 100. %

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-59	101081721-59	Yes	7 %

Location:

Description: Beige, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 7. %
Other Material: Non-fibrous 93. %

D-60	101081721-60	Yes	7 %
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Location:

Description: Beige, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 7. %
Other Material: Non-fibrous 93. %

D-61	101081721-61.1	No	NAD
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Location:

Description: White, Homogeneous, Skim Coat
Asbestos Types:
Other Material: Non-fibrous 100. %

D-61	101081721-61.2	No	NAD
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Location:

Description: Beige, Homogeneous, Base Coat
Asbestos Types:
Other Material: Cellulose Trace, Non-fibrous 100. %

D-62	101081721-62.1	No	NAD
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Location:

Description: White, Homogeneous, Skim Coat
Asbestos Types:
Other Material: Non-fibrous 100. %

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-62	101081721-62.2	No	NAD
Location:			
Description: Beige, Homogeneous, Base Coat			
Asbestos Types:			
Other Material: Cellulose 2. %, Non-fibrous 98. %			
D-63	101081721-63.1	No	NAD
Location:			
Description: White, Homogeneous, Cementitious, Skim Coat			
Asbestos Types:			
Other Material: Non-fibrous 100. %			
D-63	101081721-63.2	No	NAD
Location:			
Description: Beige, Homogeneous, Cementitious, Base Coat			
Asbestos Types:			
Other Material: Non-fibrous 100. %			
D-64	101081721-64.1	No	NAD
Location:			
Description: Blue/White, Homogeneous, Skim Coat			
Asbestos Types:			
Other Material: Non-fibrous 100. %			
D-64	101081721-64.2	No	NAD
Location:			
Description: Beige, Heterogeneous, Base Coat			
Asbestos Types:			
Other Material: Non-fibrous 100. %			

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-65	101081721-65.1	No	NAD

Location:

Description: Blue/White, Homogeneous, Skim Coat
Asbestos Types:
Other Material: Non-fibrous 100. %

D-65	101081721-65.2	No	NAD
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Location:

Description: Grey, Homogeneous, Cementitious, Base Coat
Asbestos Types:
Other Material: Non-fibrous 100. %

D-66	101081721-66.1	No	NAD
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Location:

Description: Blue/White, Homogeneous, Skim Coat
Asbestos Types:
Other Material: Non-fibrous 100. %

D-66	101081721-66.2	No	NAD
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Location:

Description: Beige, Homogeneous, Cementitious, Base Coat
Asbestos Types:
Other Material: Non-fibrous 100. %

D-67	101081721-67	No	NAD
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Location:

Description: White, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 2. %, Non-fibrous 98. %

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-68	101081721-68	No	NAD
Location:			
Description: White, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 2. %, Non-fibrous 98. %			
D-69	101081721-69	No	NAD
Location:			
Description: Brown, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 100. %			
D-70	101081721-70	No	NAD
Location:			
Description: Brown, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 100. %			
D-71	101081721-71	No	NAD
Location:			
Description: Red, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 100. %			
D-72	101081721-72	No	NAD
Location:			
Description: Red, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 100. %			

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-73	101081721-73	Yes	85 %

Location:

Description: Grey, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 85. %
Other Material: Non-fibrous 15. %

D-74	101081721-74	Yes	55 %
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Location:

Description: White, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 55. %
Other Material: Non-fibrous 45. %

D-752	101081721-75	Yes	70 %
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Location:

Description: Grey, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 70. %
Other Material: Non-fibrous 30. %

D-76	101081721-76	No	NAD
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Location:

Description: White, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 55. %, Non-fibrous 45. %

D-77	101081721-77	Yes	65 %
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Location:

Description: Brown, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 65. %
Other Material: Cellulose 30. %, Non-fibrous 5. %

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-78	101081721-78	Yes	20 %

Location:

Description: Brown, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 20. %
Other Material: Cellulose 75. %, Non-fibrous 5. %

D-79	101081721-79	Yes	55 %
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Location:

Description: White, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 55. %
Other Material: Non-fibrous 45. %

D-80	101081721-80	Yes	5 %
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Location:

Description: Off-White/Brown, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 5. %
Other Material: Cellulose 75. %, Synthetic fibers 15. %, Non-fibrous 5. %

D-81	101081721-81	Yes	75 %
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Location:

Description: Grey, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 75. %
Other Material: Non-fibrous 25. %

D-82	101081721-82	Yes	75 %
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Location:

Description: Grey, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 75. %
Other Material: Non-fibrous 25. %

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-83	101081721-83	No	NAD
Location:			
Description: Brown, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 97. %, Non-fibrous 3. %			
D-84	101081721-84	No	NAD
Location:			
Description: Brown, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 93. %, Non-fibrous 7. %			
D-85	101081721-85	No	NAD
Location:			
Description: Black/Brown, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 97. %, Non-fibrous 3. %			
D-86	101081721-86	No	NAD
Location:			
Description: Black/Brown, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 97. %, Non-fibrous 3. %			
D-87	101081721-87.1	No	NAD
Location:			
Description: White, Homogeneous, Skim Coat			
Asbestos Types:			
Other Material: Non-fibrous 100. %			

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-87	101081721-87.2	No	NAD
Location:			
Description: Grey, Homogeneous, Cementitious, Base Coat			
Asbestos Types:			
Other Material: Non-fibrous 100. %			
D-88	101081721-88.1	No	NAD
Location:			
Description: White, Homogeneous, Skim Coat			
Asbestos Types:			
Other Material: Non-fibrous 100. %			
D-88	101081721-88.2	No	NAD
Location:			
Description: Grey, Homogeneous, Cementitious, Base Coat			
Asbestos Types:			
Other Material: Non-fibrous 100. %			
D-89	101081721-89	No	NAD
Location:			
Description: Black/Brown, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 40. %, Non-fibrous 60. %			
D-90	101081721-90	No	NAD
Location:			
Description: Black/Brown, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 40. %, Non-fibrous 60. %			

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-91	101081721-91T1	No	NAD
Location:			
Description: Black/Brown, Homogeneous, Tile			
Asbestos Types:			
Other Material: Cellulose 35. %, Non-fibrous 65. %			
D-91	101081721-91.2	No	NAD
Location:			
Description: Brown, Homogeneous, Hessian Backing			
Asbestos Types:			
Other Material: Cellulose 95. %, Non-fibrous 5. %			
D-92	101081721-92T1	No	NAD
Location:			
Description: Black/Brown, Homogeneous, Floor Tile			
Asbestos Types:			
Other Material: Cellulose 35. %, Non-fibrous 65. %			
D-92	101081721-92.2	No	NAD
Location:			
Description: Brown, Homogeneous, Hessian Backing			
Asbestos Types:			
Other Material: Cellulose 95. %, Non-fibrous 5. %			
D-93	101081721-93	Yes	65 %
Location:			
Description: Grey, Homogeneous, Bulk Material			
Asbestos Types: Chrysotile 65. %			
Other Material: Non-fibrous 35. %			

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Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-94	101081721-94	Yes	65 %

Location:

Description: Grey, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 65. %
Other Material: Non-fibrous 35. %

D-95	101081721-95	No	NAD
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Location:

Description: Off-White/Brown, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 25. %, Fibrous glass 10. %, Non-fibrous 65. %

D-96	101081721-96	No	NAD
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Location:

Description: Off-White/Brown, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 25. %, Fibrous glass 10. %, Non-fibrous 65. %

Reporting Notes:

Analyzed by: Sam Manooch Sam Manooch Date 08/21/01

*NAD/NSD = no asbestos detected; NA = not analyzed; NA/PS = not analyzed / positive stop; PLM Bulk Asbestos Analysis by EPA 600/M4-82-020 per 40 CFR 763 (NVLAP Lab #101904-0) and ELAP PLM Analysis Protocol 198.1 for New York samples (NYSDOH ELAP Lab # 10984); Note: PLM is not consistently reliable in detecting asbestos in floor coverings and similar non-friable organically bound materials. TEM is currently the only method that can be used to determine if this material can be considered or treated as non-asbestos-containing in New York State (also see EPA Advisory for floor tile, FR 59, 146, 38970, 8/1/94). National Institute of Standards and Technology Accreditation requirements mandate that this report must not be reproduced except in full without the approval of the laboratory. This PLM report relates ONLY to the items tested.

Reviewed By: Sam Manooch

**SCIENTIFIC LABORATORIES, INC.**

13635 GENITO ROAD
MIDLOTHIAN, VA 23112
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PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493 Unexpected Road
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Date Received 08/29/2001 SciLab Job No. 101082099
Date Examined 08/29/2001 P.O. # Famuliner
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RE: New Dixie Theater. Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-97	101082099-01	No	NAD
Location: Theater 1			
Description: White, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 2. %, Non-fibrous 98. %			
D-98	101082099-02	No	NAD
Location: Theater 1			
Description: White/Silver, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Non-fibrous 100. %			
D-99	101082099-03	Yes	5 %
Location: Projection Room			
Description: Beige, Homogeneous, Bulk Material			
Asbestos Types: Chrysotile 5. %			
Other Material: Non-fibrous 95. %			
D-100	101082099-04	No	NAD
Location: Attic			
Description: Grey, Heterogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 30. %, Synthetic fibers 2. %			
D-101	101082099-05	No	NAD
Location: Attic			
Description: Lt. Grey, Homogeneous, Bulk Material			
Asbestos Types:			
Other Material: Cellulose 2. %, Non-fibrous 98. %			

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Palmer Asbestest, Inc.
Attn: Chance Famuliner
493 Unexpected Road
Lexington, VA 24450

Date Received 08/29/2001 SciLab Job No. 101082099

Date Examined 08/29/2001 P.O. # Famuliner

Page 2 of 2

RE: New Dixie Theater, Staunton, VA 24401

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-102	101082099-06	No	NAD

Location: Behind Stage

Description: Lt. Grey, Heterogeneous, Bulk Material

Asbestos Types:

Other Material: Cellulose 2. %, Non-fibrous 98. %

Reporting Notes:

Analyzed by: Gordon Saleeby Gordon Saleeby Date Aug 29, 2001
*NAD/NSD = no asbestos detected; NA = not analyzed; NA/PS = not analyzed / positive stop; PLM Bulk Asbestos Analysis by EPA 600/M4-82-020 per 40 CFR 763 (NVLAP Lab #101904-0) and ELAP PLM Analysis Protocol 198.1 for New York samples (NYSDOH ELAP Lab # 10984); Note: PLM is not consistently reliable in detecting asbestos in floor coverings and similar non-friable organically bound materials. TEM is currently the only method that can be used to determine if this material can be considered or treated as non-asbestos-containing in New York State (also see EPA Advisory for floor tile, FR 59, 146, 38970, 8/1/94). National Institute of Standards and Technology Accreditation requirements mandate that this report must not be reproduced except in full without the approval of the laboratory. This PLM report relates ONLY to the items tested.

Reviewed By: [Signature]

August 29, 2001

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493Unexpected Road
Lexington, VA 24450

RE: Palmer Asbestest, Inc.
Job Number 101082099
P.O. # Famuliner
New Dixie Theater, Staunton, VA 24401
(Report Amended, 09/05/01)

Dear Chance Famuliner:

Enclosed are the results for PLM asbestos analysis of the following Palmer Asbestest, Inc. samples received at SCILAB on Wednesday, August 29, 2001, for a 24 hour turnaround:

D-97, D-98, D-99, D-100, D-101, D-102

The 6 samples contained in zip lock bag were shipped to SciLab via UPS. These samples were prepared and analyzed according to the EPA Interim Method (EPA 600/M4-82-020 per 40 CFR 763, subpt F, App. A). The required analytical information, analysis results, analyst signature and laboratory identification is contained in the Analyst's Report.

This report relates ONLY to the sample analysis expressed as percent asbestos. SciLab assumes no responsibility for customer supplied data such as "sample type", "location", or "area sampled". This report must not be used to claim product endorsement by SciLab, NVLAP or any agency of the U. S. Government. The National Institute of Standards and Technology Accreditation requirements, mandates that this report must not be reproduced, except in full without the written approval of the laboratory. This report may contain specific data not covered by NVLAP or ELAP accreditations respectively, if so identified in relevant footnotes.

SciLab appreciates this opportunity to serve your organization. Please contact us for any further assistance or with any questions.

Sincerely,



Georgie Stacy
Operations Manager

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493Unexpected Road
Lexington, VA 24450

Date Received 08/29/2001 **SciLab Job No.** 101082099
Date Examined 08/29/2001 **P.O. #** Famuliner
Page 1 of 2
RE: New Dixie Theater. Staunton, VA 24401
(Report Amended, 09/05/01)

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-97	101082099-01	No	NAD

Location: Theater 1

Description: White, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 2. %, Non-fibrous 98. %

D-98	101082099-02	No	NAD
------	--------------	----	-----

Location: Theater 1

Description: White/Silver, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Non-fibrous 100. %

D-99	101082099-03	Yes	5 %
------	--------------	-----	-----

Location: Projecton Room

Description: Beige, Homogeneous, Bulk Material
Asbestos Types: Chrysotile 5. %
Other Material: Non-fibrous 95. %

D-100	101082099-04	No	NAD
-------	--------------	----	-----

Location: Attic

Description: Grey, Heterogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 30. %, Synthetic fibers 2. %, Non-fibrous 68. %

D-101	101082099-05	No	NAD
-------	--------------	----	-----

Location: Attic

Description: Lt. Grey, Homogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 2. %, Non-fibrous 98. %

PLM Bulk Asbestos Report

Palmer Asbestest, Inc.
Attn: Chance Famuliner
493Unexpected Road
Lexington, VA 24450

Date Received 08/29/2001 **SciLab Job No.** 101082099
Date Examined 08/29/2001 **P.O. #** Famuliner
Page 2 of 2
RE: New Dixie Theater. Staunton, VA 24401
(Report Amended, 09/05/01)

Client No. / HGA	Lab No.	Asbestos Present	Total % Asbestos
D-102	101082099-06	No	NAD

Location: Behind Stage

Description: Lt. Grey, Heterogeneous, Bulk Material
Asbestos Types:
Other Material: Cellulose 2. %, Non-fibrous 98. %

Reporting Notes:

Analyzed by: Gordon Saleeby Gordon Saleeby Date Sept 6, 2001
*NAD/NSD = no asbestos detected; NA = not analyzed; NA/PS = not analyzed / positive stop; PLM Bulk Asbestos Analysis by EPA 600/M4-82-020 per 40 CFR 763 (NVLAP Lab #101904-0) and ELAP PLM Analysis Protocol 198.1 for New York samples (NYSDOH ELAP Lab # 10984); Note: PLM is not consistently reliable in detecting asbestos in floor coverings and similar non-friable organically bound materials. TEM is currently the only method that can be used to determine if this material can be considered or treated as non-asbestos-containing in New York State (also see EPA Advisory for floor tile, FR 59, 146, 38970, 8/1/94). National Institute of Standards and Technology Accreditation requirements mandate that this report must not be reproduced except in full without the approval of the laboratory. This PLM report relates ONLY to the items tested.

Reviewed By: Sam Smith

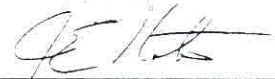
05-31-2002

3303 002229

VIRGINIA ASBESTOS LICENSE
INSPECTOR LICENSE

CHARLES CHANCE FAMULINER
493 UNEXPECTED ROAD

LEXINGTON, VA 24450



Jack E. Kotvas, Director

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

EXPIRES ON

02-28-2002

COMMONWEALTH OF VIRGINIA

3600 West Broad Street, Richmond, VA 23220
Telephone: (804) 367-8500

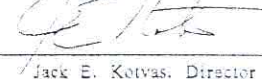
NUMBER

3304 001429

VIRGINIA ASBESTOS LICENSE
MANAGEMENT PLANNER LICENSE

CHARLES CHANCE FAMULINER
493 UNEXPECTED ROAD

LEXINGTON, VA 24450



Jack E. Kotvas, Director

ALTERATION OF THIS DOCUMENT, USE AFTER EXPIRATION, OR USE BY PERSONS OTHER THAN THE LICENSEE MAY RESULT IN CRIMINAL PROSECUTION UNDER THE CODE OF VIRGINIA

SEE REVERSE SIDE FOR NAME AND/OR ADDRESS CHANGE

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

EXPIRES ON

12-31-2001

COMMONWEALTH OF VIRGINIA

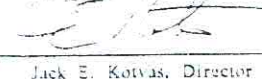
3600 West Broad Street, Richmond, VA 23220
Telephone: (804) 367-8500

NUMBER

3309 000713

VIRGINIA ASBESTOS LICENSE
PROJECT MONITOR LICENSE

CHARLES CHANCE FAMULINER
493 UNEXPECTED ROAD
PO BOX 299
LEXINGTON, VA 24450



Jack E. Kotvas, Director

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EXPIRES ON
01-31-2002

3600 West Broad Street, Richmond, VA 23230
Telephone: 1 (804) 367-8500

NUMBER
3303 002602

VIRGINIA ASBESTOS LICENSE
INSPECTOR LICENSE

KRISTIN MICHELLE HATCHER
493 UNEXPECTED RD

LEXINGTON, VA 24450



Jack E. Kotvas, Director

OPERATION OF THIS LICENSE, USE AFTER EXPIRATION OR USE BY PERSONS OTHER THAN THOSE NAMED MAY RESULT IN CRIMINAL PROSECUTION UNDER THE CODE OF VIRGINIA

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DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

EXPIRES ON

01-31-2002

COMMONWEALTH OF VIRGINIA

3600 West Broad Street, Richmond, VA 23230
Telephone: 1 (804) 367-8500

NUMBER

3304 001422

VIRGINIA ASBESTOS LICENSE
MANAGEMENT PLANNER LICENSE

KRISTIN MICHELLE HATCHER
493 UNEXPECTED RD

LEXINGTON, VA 24450



Jack E. Kotvas, Director

OPERATION OF THIS LICENSE, USE AFTER EXPIRATION OR USE BY PERSONS OTHER THAN THOSE NAMED MAY RESULT IN CRIMINAL PROSECUTION UNDER THE CODE OF VIRGINIA

SEE REVERSE SIDE FOR NAME AND/OR ADDRESS CHANGE

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

EXPIRES ON

01-31-2002

COMMONWEALTH OF VIRGINIA

3600 West Broad Street, Richmond, VA 23230
Telephone: 1 (804) 367-8500

NUMBER

3305 000989

VIRGINIA ASBESTOS LICENSE
PROJECT DESIGNER LICENSE

KRISTIN MICHELLE HATCHER
493 UNEXPECTED RD

LEXINGTON, VA 24450



Jack E. Kotvas, Director

OPERATION OF THIS LICENSE, USE AFTER EXPIRATION OR USE BY PERSONS OTHER THAN THOSE NAMED MAY RESULT IN CRIMINAL PROSECUTION UNDER THE CODE OF VIRGINIA

SEE REVERSE SIDE FOR NAME AND/OR ADDRESS CHANGE

ATTACHMENT III-2(a) Scope

E-COM, LLC

ENVIRONMENTAL ENGINEERING & REMEDIATION

P.O. Box 413
Midlothian, VA 23113

804 218-2320
804 412-2906 (fax)

November 6, 2020

Thomas Wagner
Pamela Wagner
The Arcadia Project
125 East Beverly Street
Staunton, VA 23803

RE: Proposal for Abatement and Demolition Services
The Arcadia Project, 125 East Beverly Street
E-COM Proposal No. 20-020

Dear Mr. and Mrs. Wagner:

Enclosed please find our proposal for the Arcadia Project in Staunton, VA. This proposal is based on several meetings held on-site as well as the asbestos report prepared by Palmer Asbestest Company, dated August 2001.

SCOPE OF WORK

This proposal includes asbestos removal and demolition work associated with a renovation plan for the theater. This proposal includes provisions for all of the following:

- Removal and disposal of drop acoustical ceiling panels and insulation on both main theaters
- Cleanup of theaters after removal of drop ceilings in event asbestos material is encountered
- Removal and disposal of carpet throughout the building
- Demolition of lobby concession stand and office adjoining it
- Removal and disposal of asbestos floor tiles and mastic in lobby beneath carpet
- Demolition of wall in lobby to create enhanced sitting area
- Removal and disposal of lobby textured ceiling plaster (if ceiling above it is non-asbestos)
- Removal and disposal of wall textile fabric throughout
- Installation of wall girts along perimeter (outside) walls where textured wall plaster is present

TIME TO COMPLETE

It is estimated that all of the work can be completed in three to four weeks. Work will be performed in 8-hour shifts, from Monday through Friday, unless otherwise discussed and authorized.

TERMS AND CONDITIONS

Work to be performed by appropriately trained and licensed asbestos abatement personnel. This proposal includes provisions to utilize the services of a third-party asbestos project monitor to collect air samples to ensure air quality is suitable following all abatement tasks.

All asbestos waste to be placed into sealed bags and transported to a licensed landfill using waste disposal manifest forms. All demolition debris to be placed into dumpsters staged on the outside of the building alongside the building. It is assumed that a manlift with leveling capability will be used to access the drop ceilings in the theater. All personnel will have requisite training in accordance with state and federal regulations. E-COM is a licensed Class A contractor and asbestos abatement company.

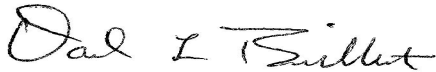
COST

The work will be performed for a lump sum fee of \$44,000. We recommend that an additional 15% contingency (or \$6000) be budgeted for unforeseen or incidentals that may have to be performed once the work starts and materials are uncovered. Therefore the total budget should be at least \$50,000. We may not complete tasks and will provide the appropriate credit to the owner, such as if the lobby ceiling is decided to not be abated we will provide a \$6,000 credit. Our cost includes provisions for a one month rental of a boom lift and two rolloff dumpsters (30 yard) for trash disposal as well as all disposal of asbestos waste materials. We will require a 25% down payment to initiate work and balance is due in full upon completion of the work.

Thank you for the opportunity to be of service on this project. Please give me a call if you have any questions or would like to discuss the above information.

Sincerely,

E-COM LLC



David L. Billett, P.E.
Senior Project Manager

DLB/cac

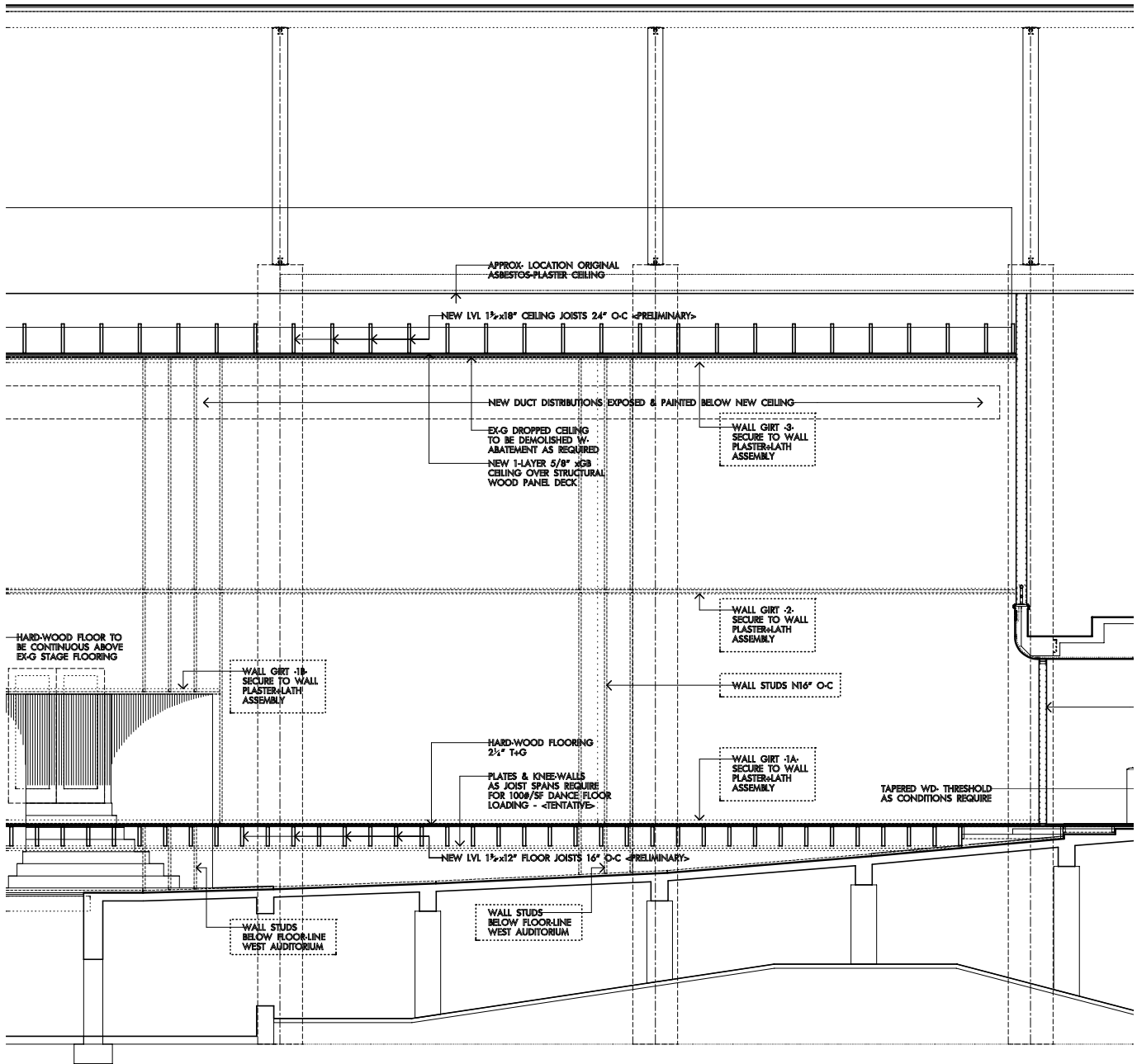
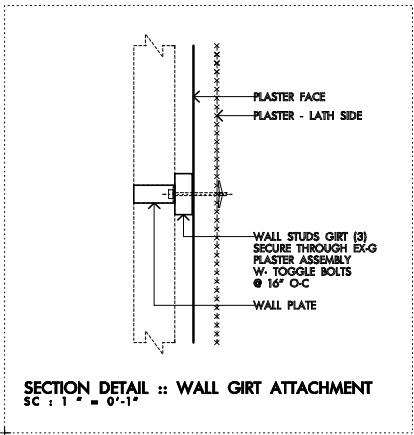
CLIENT AUTHORIZATION:

Name and Title

Signature

Date

ATTACHMENT III-2(b) Wall Girts



Attachment III-3 Exhibit B
City of Staunton - The Arcadia Project
Scope of Work
Budget /Sources of Funding
January 28, 2021

Scope of Work	Budget			
		Local In-Kind Match	EPA Grant Share	VBAF Grant Share
Asbestos remediation and demolition work	\$50,000	\$ -	\$ -	\$ 50,000
Structural Engineering Services	\$ 2,000.00	\$ 2,000.00	\$ -	\$ -
Consulting Services (Local Market Analysis)	\$ 10,000.00	\$ 10,000.00	\$ -	\$ -
Architectural Services	\$ 7,500.00	\$ 7,500.00	\$ -	\$ -
Consulting Services (Grant Writing and Operational Consulting)	\$ 3,000.00	\$ 3,000.00	\$ -	\$ -
Retirement of Outstanding Debt (Atlantic Union Bank)	\$ 70,000.00	\$ 70,000.00	\$ -	\$ -
Administration Allowance	\$ 1,250.00	\$ 1,250.00	\$ -	\$ -
TOTAL	\$143,750	\$93,750	\$0	\$50,000

Attachment III.4 Local Match Invoices



AGREEMENT FOR STRUCTURAL ENGINEERING SERVICES

09.20.2019

(ARCADIA) 125 E BEVERLEY STREET STAUNTON, TVA

THOMAS WAGNER

DATE: PROJECT:

CLIENT INFORMATION: SCOPE OF DESIGN SERVICES

Schnitzhofer & Associates, LLC proposes to provide the visual structural condition survey for the above listed commercial property

STRUCTURAL ENGINEERING DESIGN FEES

Schnitzhofer & Associates, LLC proposes to complete the structural engineering services for your project for the lump sum of (NTE): \$2000

PAYMENT TERMS

The amount shall become payable within 30 days upon receipt of invoice, with interest accruing at the rate of 1.5% per month (18% per year) for balances remaining after (30) thirty days.

(CLIENT SIGNATURE) (TITLE) (DATE) (CLIENT PRINT NAME)

James Ray Schnitzhofer P.E. (DATE) 09.20.2019 President



Attachment III.4 Local Match Invoices

SUMMIT DESIGN & ENGINEERING SERVICES, PLLC

320 Executive Court
Hillsborough, NC 27278
919-732-3883

March 11, 2020
Project No: 19-0291.V60
Invoice No: 25042

Pamela Wagner
Ex Director
The Arcadia Project
P. O. Box 571
Staunton, VA 24402

Project 19-0291.V60 The Arcadia Project
Professional Services from January 4, 2020 to February 28, 2020

Phase P01 Analyze Existing Local Market Data
Fee

Billing Phase	Fee	Percent Complete	Earned	Previous Fee Billing	Current Fee Billing
Analyze Existing Local Market Data	2,000.00	100.00	2,000.00	1,600.00	200.00
Define Market Areas	1,000.00	100.00	1,000.00	800.00	200.00
Gauge Strength-Local Users/Competitor	2,000.00	100.00	2,000.00	1,600.00	200.00
Examine Precedent Mode a - Town Theaters	1,500.00	100.00	1,500.00	1,350.00	150.00
Examine Precedent Mode a-Specialty Foods	1,500.00	100.00	1,500.00	1,350.00	150.00
Conclusions	1,000.00	100.00	1,000.00	800.00	200.00
Final Deliverable	1,000.00	100.00	1,000.00	800.00	200.00
Total Fee	10,000.00		10,000.00	8,000.00	1,000.00
Total Fee					1,000.0
Total this Phase					\$1,000.0
Total this Invoice					\$1,000.0

ALL CHECKS should be made payable to Summit Design & Engineering Services, PLLC & mail to 320 Executive Court, Hillsborough, NC 27278.

WE NOW ACCEPT AMERICAN EXPRESS, MASTERCARD, VISA, AND DISCOVER. TO MAKE A PAYMENT BY CHARGE CARD, PLEASE CALL (919) 732-3883.

Attachment III.4 Local Match Invoices

THANK YOU FOR YOUR BUSINESS. PAYMENTS ARE DUE UPON RECEIPT. PLEASE
REFERENCE INVOICE NUMBER ON CHECK.

Statement of Account Architectural Services

Marc Paxton/architect

222 Kalorama Street
Staunton VA 24401
540.885.0700

Date> 26.May.2020
Project> **Arcadia Project**
To> **Mr. Thomas Wagner**

STM:0520 / 19ACPR
125 East Beverley Street / Staunton VA
164 No. Coalter Street / Staunton VA 24401

Description	Reference	Cumulation	TOTAL
Services:	Fixed/VBL** (09.25.2019)		
Previous Statements:		<None>	
Recent Payments:	✓1024 / 01.22.20	\$1,500.00	
	✓1032 / 04.13.20	1,500.00	
Unpaid Balance:		(05.26.2020)	\$ 2,000.00

Current: Fixed Fee Scheduled
Basic services · PD: 06.05.19 ~ 07.01.20
Consulting Planning Services / Professional/design . \$ 5,000.00
As-Is Docs /Meetings / Sketch/presentation

Payment SCHEDULE:	Payment.1	Dated: 01.22.2020	\$ 1,500.00	✓# 1024
	Payment.2	Dated: 04.13.2020	\$ 1,500.00	✓# 1032
	Payment.3	Dated: (Final)	\$ 2,000.00	✓#

Fee TOTAL> Five-Thousand & 00/100 \$ 5,000.00
Expenses: Reproductions to Date \$ 11.06
ADD 11.06.19 - DTS Inv# 303675 (3-scan/copies) . \$ 11.06

The above Fee & Expense amounts are due in accordance with our Understanding & Schedule of Payment: 25.September.2019
for Architectural Services with reimbursable expenses plus any due interest for the period/s ending: 26.May.2020

This amount shall become payable upon receipt of this Statement, with interest accruing at the rate of 1.5% per month (18% per year) for balances remaining after (30) thirty days.



Status:
Fee Understanding: \$ 5,000.00
Expense Understanding: To be Reimbursed at Direct Cost without Mark-up as Incurred or at Fee Payments
Total Payments to Date: \$ 3,000.00
Final Payment: To be requested at Substantial Completion of all Services prior to Funding Grant Submission



Marc Paxton

Marc Paxton/architect

paxton.marc.architect@gmail.com · e

Arcadia Redevelopment IRF Grant Writing
Statement of Work

DRAFT 11.7.19

Purpose: This document outlines freelance grant writer services that the Arcadia Project hereafter referred to as the Arcadia Team, requires as it seeks to obtain a Department of Housing and Community Development (DHCD) Industrial Revitalization Fund (IRF) Grant.

Scope of Work: Mr. Michael Barnes, hereafter referred to as Grant Writer, shall primarily be responsible for developing the written narrative that responds to DHCD's IRF Grant questions found within their CAMS Portal and gathering various supporting documentation required by the IRF Grant. The Grant Writer will deliver a completed grant application 30 days prior to the May 15, 2020 grant deadline. To that end, the Grant Writer shall work closely with the Arcadia Team, the City, DHCD, and other consultants as described herein to shape a grant application that meets the needs of the project.

Unless amended, the scope of this statement of work is anticipated to end with the completion and submittal of the written grant in the DHCD CAMS Portal, except to provide any subsequent clarifications associated with grant as might arise over the next 12 or so months after the actual grant submittal.

Assignment of Tasks/Responsibilities: The following is a statement of tasks and responsibilities that will be assigned to the Arcadia Team versus to the Grant Writer.

1. City/Arcadia Project/ Public/Private Partnership.

The Arcadia Team, as the legal entity responsible for representing the Arcadia Project, is responsible for the partnership agreement with the City of Staunton as required by DHCD for the IRF grant. This responsibility shall include, but be limited to, the following tasks: developing any written agreements or legal documents required to establish this partnership, obtaining any financial or in-kind contributions from the City, managing the City's issues and concerns related to the project that are clearly beyond the scope of delivering the written grant.

The Grant Writer shall be responsible for obtaining any documents specifically required by the IRF grant, such as, letters of support, City resolutions, etc. This responsibility shall extend to writing these documents, where required to do so by the City, attending preparatory meetings with city staff, and presenting to City Council or the Planning Commission as required.

2. DHCD Relationship.

The Arcadia Team is primarily responsible for managing the relationship DHCD before and after the award of the IRF grant and shall serve as the primary contact and agent. This

responsibility shall include, but be limited to, the following tasks: obtaining or managing the Virginia Main Street Financial Feasibility Study Grant, developing and managing any post-grant submittal documentation, writing any required status or close out reports required by DHCD, etc. The Arcadia Team shall also be responsible for either obtaining the necessary DHCD CAMS On-line Access for the Grant or working with the City to obtain access to this portal.

The Grant Writer shall serve as the primary contact for the actual writing of the IRF Grant. This shall include managing all written and oral correspondence with DHCD staff and copying the Arcadia Team on this correspondence. The Grant Writer may also be required to attend a limited number of meetings with DHCD Staff. After the grant is awarded, the Grant Writer shall be available for a period of 12 months to answer questions and provide any clarifications required; however, the grant writer shall not be responsible for developing new documents or similar information as might be required by DHCD after the submittal of the grant.

3. Relationship with other consultants

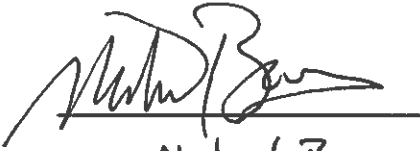
As part of the IRF, multiple supporting documents, such as Structural Engineering Reports, Market Studies, Architectural Reports, etc., will need to be developed. The grant writer will consult early on with Arcadia Team to set expectations and goals for what needs to be in each supporting document of the IRF Grant. Most of these documents are outlined as deliverables to be procured by a DHCD-funded Virginia Main Street Financial Feasibility Study Grant. It is expected that most of these documents will be complete or mostly completed prior to the actual writing of the IRF Grant; however, it is recognized that changes to these documents may continue up until the actual deadline for the IRF Grant.

The Arcadia Team will have the primary responsibility for managing these other consultants and ensuring that their deliverables are completed in a timely fashion and to a standard sufficient to meet the needs of IRF grants as well as the overall project. However, the Grant Writer is expected to provide some comment and may be required to participate in the final formulation of these reports to ensure consistency and the ultimate incorporation of these documents into the final grant application.

Deliverables: Deliverables shall consist of series of written responses entered and attachment uploaded into the DHCD CAMS Portal as required by DHCD. The attachments shall be provided as PDFs, Microsoft Office documents, common image formats, or other similar formats. The Grant Writer shall provide a final version of the CAMS Portal responses and attachments as a single document and provide this document to the Arcadia Team on flash drive, CD, or similar other format acceptable to the Arcadia Team. Any cost for printing shall be the responsibility of the Arcadia Team. The Grant Writer shall be responsible for all costs and equipment associated with developing these electronic documents, except those documents assigned to other consultants.

Attachment III.4 Local Match Invoices

Agreed to for Grant Writer:



NAME: Michael Barnes

TITLE: Grant writer

Date: 11/7/19

Timeline for Completion of Work and Compensation:

Compensation for writing IRF grant applications: \$3,000.

Payment will be tied to the following deliverables:

1/3 upon consulting about consulting documents for IRF grant

1/3 upon rough draft due April 15, 2020.

1/3 due upon final draft due May 15, 2020.

Compensation for attending (as needed) out-of-town preparatory meetings with city staff, meetings with DHCD Staff, and/or presenting to City Council or the Planning Commission during the normal 9-5 pm working day shall be compensated as time lost at work, \$45/hour not to exceed 10 hours.

NAME:

TITLE:

Date:

Agreed to for Arcadia Project:

Attachment III.4 Local Match Invoices

Monthly Timesheet

Customer's Billing Address:		Invoice From:	
Arcadia Project		Name:	Valley Writing Services, LLC
Attn: Pamela Mason Wagner			ATTN: Amy Thornton
P.O. Box 571		Address:	1161 Fadley Rd.
Staunton, VA 24402			Weyers Cave, VA 24486
		Invoice Number	ARCADIA 0001

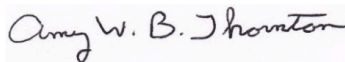
Invoice Date - 4/7/2020

Payment due by 5/6/2020

[Thank you for your business!](#)

Date	Activity #1	Hours	Activity #2	Hours	Total
Mon 3/30/2020	Morgan Trust proposal	1.00			1.00
Tue 3/31/2020	Morgan Trust proposal	2.00			2.00
Wed 4/1/2020	Morgan Trust proposal	2.00			2.00
		5.00			5.00

Total Hours 5.00
Pay rate \$40.00
Total Due \$200.00



Consultant Signature

4/7/2020

Date

Attachment III.4 Local Match Invoices

Monthly Timesheet

Customer's Billing Address:		Invoice From:	
Arcadia Project		Name:	Valley Writing Services, LLC
Attn: Pamela Mason Wagner			ATTN: Amy Thornton
P.O. Box 571		Address:	1161 Fadley Rd.
Staunton, VA 24402			Weyers Cave, VA 24486
		Invoice Number	ARCADIA 0002

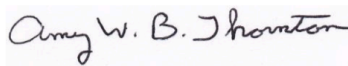
Invoice Date - 5/22/2020

Payment due by 6/21/2020

[Thank you for your business!](#)

Date	Activity #1	Hours	Activity #2	Hours	Total
Wed 5/6/2020	Presbyterian Women Grant	1.00			1.00
Tue 5/19/2020	Executive Summary	1.00			1.00
Thu 5/21/2020	Executive Summary	0.50			0.50
	Retainer for 4 hours in June	4.00			4.00
		6.50			6.50

Total Hours 6.50
Pay rate \$40.00
Total Due \$260.00



Consultant Signature

5/22/2020

Date

Attachment III.4 Local Match Invoices



May 22,2020

INVOICE

Arcadia Project
PO Box 571
Staunton, VA 22402

For Administration of DHCD Main Street Feasibility Grant

\$625.00

**ATTACHMENT III-5 Exhibit C
City of Staunton**

PROJECT SCHEDULE

**ACTUAL OR
ESTIMATED
COMPLETION**

Activity: Remediate asbestos at Former Dixie Theater

**end of FY
2020**

Activity:

Activity:

Activity:

Activity:

Activity:

1 **RESOLUTION APPROVING AN APPLICATION TO THE VIRGINIA ECONOMIC**
2 **DEVELOPMENT PARTNERSHIP FOR A VIRGINIA BROWNFIELDS**
3 **RESTORATION AND ECONOMIC REDEVELOPMENT ASSISTANCE FUND**
4 **REMEDATION GRANT FOR THE ARCADIA PROJECT**

5 **WHEREAS**, the Virginia Brownfields Restoration and Economic Redevelopment
6 Assistance Fund (VBAF) was established pursuant to § 10.1-1237 of the Code of Virginia of 1950,
7 as amended, to provide either grants or loans to local governments to promote the restoration and
8 redevelopment of brownfield sites and to address environmental problems or obstacles to reuse so
9 that these sites can be effectively marketed to new economic development prospects; and

10 **WHEREAS**, the Virginia Economic Development Partnership (VEDP) directs the
11 distribution of grants or loans from the VBAF to grant or loan recipients; and

12 **WHEREAS**, VBAF Remediation Grants are to be used to help fill a financing gap for
13 projects or phases of work for such restoration and redevelopment that have not already
14 commenced and are not available to reimburse for costs already incurred for a project or phase of
15 work that has begun or is already completed; and

16 **WHEREAS**, the City of Staunton has a vibrant tourist economy and has spent numerous
17 decades investing in its downtown core, and an historic theater, which sits on the eastern end of
18 the downtown portion of Beverley Street, has been a blighting influence on this block and has
19 negatively affected the surrounding properties; and

20 **WHEREAS**, The Arcadia Project will help improve the attractiveness of downtown by
21 stabilizing and renovating an important and longtime vacant historical landmark in the eastern
22 portion of the downtown; and

23 **WHEREAS**, the City desires to apply for a VBAF Remediation Grant on behalf of The
24 Arcadia Project to address their potential shortfall; and

25 **WHEREAS**, the maximum grant award is \$50,000, which requires a dollar-for-dollar
26 match, which will be provided by The Arcadia Project by utilizing funds previously expended on
27 the project; and

28 **NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Staunton,
29 Virginia, that:

30 1. The submittal of an application to VEDP by the City for a VBAF Remediation Grant, in
31 an amount not to exceed \$50,000, to be used for the remediation and renovation of the former
32 Dixie Theatre, is hereby authorized.
33

34 2. The City Manager or his designee is hereby authorized to sign and submit appropriate
35 documents, and to take such other action as he deems necessary, in connection with the proposed
36 VBAF Remediation Grant.
37

38 Adopted this 28th of January, 2021.

39

40

41

42

Andrea Oakes, Mayor

43 Attest: _____

44 Suzanne F. Simmons, Clerk of Council

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 28, 2021	Staff Member: Jeff Johnston
Item #	B	
Ordinance #		
Department:	Public Works	
Council Vision:	Responsive, Efficient Government	
Subject:	Ordinance Authorizing a Third Extension of a 5-Year Lease Agreement with New Cingular Wireless PCS, LLC, for Wireless Communications Equipment	

Background: The City currently leases space to New Cingular Wireless PCS, LLC for wireless communications equipment on the Shutterlee Mill water tank at Public Works (located behind the water treatment plant), pursuant to a five-year written lease, last extended for an additional five-year term on December 14, 2015, and expiring December 13, 2020. Staff proposes to extend the term of the lease for a third five-year extension term.

A lease amendment has been negotiated with New Cingular Wireless. As proposed, rent during the first year of the extension term will be \$43,901.88, made payable in one lump sum payment, and will escalate in accordance with the terms of the lease in an amount equal to 1.5% annually.

Attachments:

Attachment 1— Lease Agreement dated December 14, 2005

Attachment 2— First Amendment to Lease Agreement dated as of April 29, 2011 (pursuant to which the term of the lease was first extended)

Attachment 3— Second Amendment to Lease Agreement (pursuant to which the term of the lease was last extended)

Attachment 4— Third Amendment to Lease Agreement (pursuant to which the term of the lease

is proposed to be extended for an additional five years)

Attachment 5— Proposed ordinance to authorize execution of the Third Amendment to Lease Agreement

Attachment 6— Notice of Intent and Public Hearing

City Manager's Recommendation: Conduct public hearing on the ordinance authorizing the Third Amendment to Lease Agreement. After the public hearing, recommend the ordinance be adopted as presented.

Suggested Motion (to be made after the public hearing is conducted): I move that City Council adopt an ordinance authorizing the execution of the Third Amendment to Lease Agreement, extending the term of the existing lease with New Cingular Wireless PCS, LLC, for an additional five years.

City Manager: Steven L. Rosenberg

LEASE AGREEMENT

THIS LEASE, dated this 14th day of December, 2005 for identification, is made by and between the City of Staunton, a municipal corporation of the Commonwealth of Virginia ("Lessor") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having its principal place of business at 6100 Atlantic Boulevard, Norcross, GA, 30071, ("Lessee"),

WITNESSETH:

WHEREAS, Lessor is the owner of a parcel of land (the Owned Premises) situated in the City of Staunton, Virginia, legally described on the attached Exhibit A, on which a municipal water tower (the "Water Tower") is located; and

WHEREAS, Lessee is a telecommunications carrier, as defined in Section 3 of the Communications Act of 1934 (47 U.S.C. 153) and is licensed to provide personal wireless telecommunications service to the general public within the City of Staunton; and

WHEREAS, on the 17th day of April, 2000, Lessor entered into an agreement with Triton PCS Property Company, LLC ("Triton") which allowed Triton to install a circumferential ring or "halo" around the main body of the Water Tower along with certain equipment necessary for the operation of a personal wireless telecommunications facility (the "Initial Contract"); and

WHEREAS, Triton subsequently assigned the Initial Contract to Triton Network SMLLC, LLC; and

WHEREAS, Lessee subsequently purchased Triton Network SMLLC, LLC from Triton thereby becoming successor-in-interest to Triton under the Initial Contract; and

WHEREAS, the Initial Contract is due to expire December 13, 2005; and

WHEREAS, Lessee desires to continue to lease the space on the Water Tower, and to continue to lease a portion of the aforesaid parcel for the purpose of constructing, operating and maintaining certain facilities for the purpose of providing personal wireless telecommunications service to the general public;

NOW, THEREFORE, for good and valuable consideration, the parties do hereby agree as follows:

1. **Leased Premises.** (a) Lessor leases to Lessee, and Lessee leases from Lessor, space on the Water Tower for the purpose of constructing, maintaining, and operating antennas, connecting cables and appurtenances (collectively, the Antenna Facilities), and a portion of the aforesaid parcel, together with such assignable easements as the City may possess for vehicular and pedestrian access and the installation, maintenance and replacement of necessary utilities, wiring, cables and other conduits, for the construction, maintenance and operation of an Accessory Building housing equipment to be used in conjunction with the Antenna Facilities (the Ground Facilities) as more fully described herein.

(b) The current configuration of the Antenna Facilities and the Ground Facilities is shown on the attached Exhibit B-1. Subject to requirements outlined in elsewhere in this agreement, including but not limited to sections 6 and 7, Lessee shall have the right to increase

the number of antennas on the tank and the footprint of its Accessory Building to the number and dimensions shown in Exhibit B-2 with no corresponding increase in Rent. The space where the Antenna Facilities and the Ground Facilities are located shall be referred to as the Leased Premises. The Antenna Facilities and the Ground Facilities shall be jointly referred to as the Lessee's Facilities.

2. **Term.** The term of this Lease shall be five (5) years, commencing on December 14, 2005 (the Commencement Date), and ending on December 13, 2010 (the Term).

3. **Rent.** (a) Lessee shall pay to Lessor as rent for the Leased Premises the sum of \$30,240 per year, due on the first day of each year of the term in advance.

(b) The Rent shall be increased annually effective as of each anniversary of the Commencement Date by an amount equal to 4 percent of the previous year's rent.

(c) Intentionally deleted.

(d) Lessee shall pay to Lessor all actual and reasonable increased costs of maintenance of the Leased Premises directly attributable to Lessee's use and occupancy thereof within thirty (30) days of presentation to Lessee of an itemized statement delineating such increased costs, accompanied by reasonable documentation supporting such costs.

(e) All sums due by Lessee hereunder shall be paid within (5) days of the due date or the notice of payment due sent by Lessor to Lessee. Payments not made within said time shall incur a late payment fee of 5 percent (5%) of the amount due and, in addition, shall incur interest at the rate of 1 percent (1%) per month measured from the due date.

(f) Subject to the provisions of Paragraph 6(d) and Paragraph 10(b), in the event of termination of this Lease, all prepaid Rent shall be refunded to Lessee, without interest, within sixty (60) days of the effective date of such termination.

4. **Contingencies.** (a) Lessor may hire a consulting engineer who will review the plans and the proposed installation of Lessee's equipment and antenna facilities upon the Leased Premises within thirty (30) days of the receipt of the plans by the consultant. Such consultant shall provide Lessor with a report of the proposed installation and use as to whether or not any adverse effect to Lessor's or others' property and/or other transmission and reception facilities exists. Lessee agrees that it will reimburse Lessor for the actual fees and costs of said consulting engineer not to exceed the sum of Ten Thousand Dollars (\$10,000). Such charges shall be paid by Lessee thirty (30) days after Lessor bills Lessee.

(b) If the report made pursuant to (a) above reveals an adverse effect upon Lessor, as determined by Lessor in Lessor's sole and absolute discretion, Lessee shall be notified and given sixty (60) days to correct the problem. If the problem cannot be corrected by Lessee, then Lessor may terminate this lease by written notice to Lessee. Upon such termination, the rights, duties, privileges and obligations assumed by the parties hereto (with exception as to the reimbursement by Lessee of the consulting engineer fees and costs which shall remain the obligation of Lessee) shall be null and void.

5. **Security Deposit.** Pursuant to the Initial Contract, Triton deposited the sum of Seven Thousand Dollars (\$7000) with Lessor as a security deposit (the "Security Deposit"). If Lessee expands the Lessee's Facilities as outlined in 1(b) or 6(f), Lessee shall place on deposit

with Lessor an additional Three Thousand Dollars (\$3,000) (the "Additional Security Deposit"), bringing the total deposited pursuant to this Lease to Ten Thousand Dollars (\$10,000). The Security Deposit and the Additional Security Deposit, if applicable, shall be fully refundable to Lessee without interest upon the timely removal of every aspect of Lessee's Facilities, and the complete repair and restoration of the Leased Premises and the payment of any sums owed to or on behalf of Lessor in accordance with the terms of this Lease.

If Lessor removes Lessee's Facilities or any portion thereof in accordance with 10(c), Lessor must give written notice to Lessee that Lessee's Facilities or portion thereof, have been removed and will be deemed abandoned if not claimed by Lessee and the storage fees and other reasonable costs paid within thirty (30) days.

6. Governmental Approval. (a) Lessor represents and warrants that upon signature of this contract, but subject to satisfaction of the contingencies in Paragraphs 4 and 5 hereof, the use of Lessee's Facilities in accordance with applicable City ordinances for the purposes contemplated by this Agreement is authorized.

(b) Lessee's right to use the Leased Premises is contingent upon Lessee's ability to obtain and maintain any and all certificates, permits, licenses, zoning, and other approvals (whether discretionary or ministerial), that may be required by any federal, state, or local authority, for Lessee's continued use of the Leased Premises (Governmental Approvals). It shall be the sole and entire responsibility of Lessee to determine what Governmental Approvals are needed for the operation of Lessee's Facilities. Lessor agrees to reasonably cooperate with Lessee (at no cost to Lessor) in its efforts to obtain and maintain such approvals; provided, however, that Lessor's agreement to cooperate shall not in any way limit or otherwise affect the authority or discretion of Lessor's governing body, or any department, division, officer or employee of Lessor, in the conduct of its or his duties with respect to any such Governmental Approval and provided further, that Lessor shall not be required to join, be joined, or otherwise participate as a party in any judicial or administrative action brought by Lessee, or any person or entity claiming under Lessee, in which the denial of, revocation of, or imposition of conditions on any Governmental Approval is in issue. Lessee hereby expressly acknowledges and agrees that neither the execution of this Lease by Lessor nor any act by Lessor or any of Lessor's officers, agents or employees or its governing body in anticipation or in furtherance of the execution of this Lease, shall entitle Lessee to any Governmental Approval, whether discretionary or ministerial, and Lessee shall not be entitled to reimbursement of any costs or expenses of any kind or nature made or incurred in expectation of, or preparation for, the continued use of the Leased Premises.

(c) Lessee warrants that it has performed, or caused to be performed, a radio frequency emissions study (RF Study) showing that Lessee's intended use will not interfere whatsoever with any existing communications facilities of the Lessor, other lessees of the Lessor, any other adjacent property owner or user, or of any other person, and that such RF Study was conducted by an independent, qualified engineer licensed to practice in the Commonwealth of Virginia. Lessee shall, not less than fifteen (15) days prior to the issuance of a building permit for any of Lessee's Facilities, deliver a copy of such RF study to Lessor without cost to the Lessor. Lessor shall, upon request of Lessee, provide such information regarding Lessor's communications facilities as is necessary for Lessee to avoid interference with such facilities. Lessee represents and warrants that it will at all times operate and maintain the Lessee Facilities in accordance with all applicable laws, rules, regulations and ordinances, including but not limited to, FCC regulations pertaining to RF emissions. Lessee shall provide, at its expense,

training for Lessor's personnel with respect to working on said tower and the RF Radiation component. :

(d) If any Governmental Approval is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority so that Lessee will be unable to continue to use the Leased Premises for Lessee's intended purpose, and all administrative and judicial appeals of such action have been exhausted, or the time for filing of such appeals has expired, both Lessor and Lessee shall have the right to terminate this Lease by written notice to the other, and upon such termination, this Lease shall become null and void.

(e) Notwithstanding the provisions of subparagraph (d), in the event of termination by Lessee pursuant to subparagraph (d), Lessee shall be liable to Lessor for Rent for a period of 120 days from the date of such termination, unless such termination is by reason of the denial of a conditional use permit or other approval of a discretionary nature by Lessor's governing body. Lessee shall nevertheless be responsible for removal of any of Lessee's property from the premises pursuant to Paragraph 10 hereof and the restoration of Lessor's premises accordingly. Nothing in this subparagraph shall relieve Lessor of its duty to mitigate its damages in the event of termination by Lessee.

(f) Lessee has right to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services, at no additional cost to Lessee or Lessor as long as (i) the equipment and its use does not interfere whatsoever with any other then existing communications facilities; and (ii) Lessee has paid the Additional Security Deposit.

7. **Use of Premises.** (a) Lessee may use the Leased Premises for the installation, operation, and maintenance of the Antenna Facilities and the Ground Facilities for the transmission, reception and operation of a communications system and uses incidental thereto, and for the storage of related equipment, in accordance with the terms of this Lease. Storage of items shall only be inside the Accessory Building. Lessee may erect and operate such Antenna Facilities and Ground Facilities only with Lessor's consent. In connection therewith, Lessee shall have the right to do all work necessary to prepare and maintain the Leased Premises for Lessee's business operations under this Lease and to install transmission lines connecting the antennas to the transmitters and receivers. In this regard, all welding cutting, and coating work required for the installation of antennae anchors, brackets, supports, etc., shall conform to the applicable AWWA standards and requirements. Any cutting of the tank will require Lessor's advance approval. All protective coatings and surface preparations used for the repair of existing coatings shall be approved by Lessor. The existing coatings shall be tested for the presence of lead and other hazardous substances. The cost of all lead abatement and containment procedures shall be borne by the Lessee as part of the installation cost. Any installation, maintenance, or operations work on the tank that requires placing the tank out of service shall be coordinated in advance and be undertaken only with the prior approval of the Lessor. The costs involved in placing the tank out of service including, but not limited to, the cost of labor, the cost to drain the tank, to disinfect the tank and to refill the tank, shall be borne by the Lessee. Any electrical work to be preformed on the property or tank shall be in accordance with the National Electric Code and all applicable local codes. All wiring outside of the tank shall be installed in rigid steel conduit.

(b) Lessee shall, at its sole cost and expense, construct, operate and maintain the Antenna Facilities and Ground Facilities in accordance with the standards and specifications of City of Staunton, all applicable City ordinances, permits and other requirements, and all applicable FCC rules and regulations. Any modification of Lessee's Facilities shall be in accordance with plans

approved by Lessor, which approval shall not be unreasonably withheld, denied or conditioned. Any damage done to the Owned Premises or any other property of Lessor during modification or operation of Lessee's Facilities shall be repaired at Lessee's expense within thirty (30) days after notification of damage. Title to Lessee's Facilities shall be held by Lessee, and Lessee's Facilities shall be deemed to be the personal property of Lessee and not fixtures. Lessee shall have the right to remove Lessee's Facilities at its sole expense on or before the expiration or earlier termination of this Lease, provided that Lessee shall be required to repair any damage and to restore the Leased Premises to their original condition, ordinary wear and tear, casualty and the acts or omissions of Lessor or third parties excepted. Notwithstanding the foregoing, Lessee understands and agrees that the circumferential ring or "halo" to which the Antenna Facilities are attached is the sole property of Lessor and shall not be removed by Lessee upon the termination of this lease.

(c) All modifications or improvements of the Leased Premises made for Lessee's benefit shall be at the Lessee's expense, and such improvements shall be maintained in a good state of repair by Lessee at Lessee's expense. Lessee shall provide written notice to Lessor not less than seventy-two (72) hours before commencing maintenance or modification of the Antenna Facilities. The Antenna Facilities shall not be painted without Lessor's approval.

(d) Lessee shall provide Lessor with as-built drawings of the equipment and improvements installed on the Leased Premises showing the actual location of all Antenna Facilities and Ground Facilities and for all other improvements installed on Lessor's property by Lessee in connection with this Lease. The drawings shall be accompanied by a complete and detailed inventory of all equipment, personal property, Ground Facilities and Antenna Facilities to be placed on the Leased Premises or other property of Lessor in connection with this Lease. At Lessor's option, such as-built drawings and inventory may be attached to this Lease as Exhibit C.

(e) Lessee shall, at its expense, maintain any equipment on or attached to the Leased Premises in a safe condition, in good repair and in a manner reasonably suitable to Lessor so as not to conflict with the use of the other property of Lessor, Lessor's lessees, or of any other person, subject to the provisions of Paragraph 8 of this Lease. Lessor shall maintain, at its sole expense, access roadways to the Leased Premises in a condition which will allow existing pedestrian and vehicular access under normal weather conditions; provided, however, that Lessee shall be responsible for the repair of any damage or deterioration caused by Lessee's particular use of such roadways.

(f) Lessee, at all times during this Lease, shall have reasonable access during normal working hours to the Leased Premises in order to install, operate, and maintain its Ground Facilities, provided, however, that Lessee shall be required to notify Lessor seventy-two (72) hours in advance of accessing the Antenna Facilities. If it is necessary for Lessee to have access to the Leased Premises at some time other than the normal working hours of Lessor, Lessor may require that Lessee contact Lessor in advance for such access. For purposes of this Paragraph, "normal working hours" are Monday through Friday from 8:00 a.m. to 5:00 p.m., except for holidays.

(g) Lessee has installed utilities to serve the Antenna Facilities and Ground Facilities in the location shown on Exhibit B-1 at Lessee's sole expense. Lessee shall separately meter all utilities associated with its use of the Leased Premises and shall promptly pay all costs for such utility services. Lessor shall, without charge to Lessee, sign such reasonable documents as may

be required by utility providers to provide such service to the Leased Premises, including the grant of permits required by Lessor or a utility provider to provide service as provided herein.

(h) Lessor warrants and agrees that: (i) Lessor owns the Owned Premises and has rights of access thereto. (ii) Lessor has full right to make and perform this Lease; and (iii) Lessee, upon paying rent and performing the covenants herein provided, shall peaceably and quietly have and enjoy the Leased Premises for the purposes herein contemplated. Lessor shall not cause or permit any use of the Owned Premises which materially and unreasonably interferes with or impairs the operation of the Lessee's Facilities or the quality of the communications services being rendered by Lessee from the Leased Premises, nor shall Lessor have unsupervised access to the Leased Premises, except in the event of an emergency or a need to perform an essential function or task requiring immediate access to the Leased Premises.

8. **Equipment Upgrade.** Lessee may update or replace the Lessee's Facilities, or expand Lessee's Facilities in accordance with paragraph 1(b) from time to time with the prior written approval of Lessor, which approval shall not be unreasonably withheld, delayed or conditioned, provided that any change in location of the Lessee Facilities is satisfactory to Lessor. Lessee shall submit to Lessor a detailed proposal for any such replacement facilities and any supplemental materials as may be requested for Lessor's evaluation and approval. Lessor may hire consultants as to such upgrade regarding structure, RF, or maintenance at Lessee's expense. Lessee shall provide training for Lessor's employees with respect to working on the tower in light of the new facilities.

9. **Interference.** (a) Lessee's installation, operation, and maintenance of the Lessee Facilities shall not damage or interfere in any way with Lessor's operations. If Lessee's Facilities cause interference to such operations, Lessee shall take all measures reasonably necessary to correct and eliminate the interference. If the interference cannot be eliminated in a reasonable time, Lessee shall immediately cease operating Lessee's Facilities to the extent necessary to stop the interference. If the interference cannot be eliminated within thirty (30) days, Lessor may terminate this Lease.

(b) Lessee's use and operation of Lessee's Facilities shall not interfere with the use and operation of other communication facilities on the Owned Property which pre-existed Lessee's Facilities. If Lessee's Facilities cause interference, Lessee shall take all measures reasonably necessary to correct and eliminate the interference. If the interference cannot be eliminated in a reasonable time, Lessee shall immediately cease operating Lessee's Facilities to the extent necessary to stop the interference. If the interference cannot be eliminated within thirty (30) days, Lessor may terminate this lease.

(c) Lessor's use and operation of the Owned Property shall not interfere with the use and operation of Lessee's Facilities on the Leased Premises. If Lessor's use and operation of the Owned Property interferes with Lessee's use of the Leased Premises or Lessee's Facilities, Lessee shall provide written notice to Lessor and Lessor shall take all measures reasonably necessary to correct and eliminate such interference. If the interference cannot be eliminated within thirty (30) days, Lessee shall have the right to terminate this Lease.

(d) Lessee understands and agrees that Lessor may permit the installation of other antennae upon said tower attached to the circumferential ring or "halo" either for its own use or by leasing such space to others. Subsequent to the installation of Lessee's Facilities, Lessor shall not permit itself, its lessees or licensees to install new equipment on the Owned Premises or property contiguous thereto owned or controlled by Lessor, if it knows such equipment will cause

interference with Lessee's operations. In the event interference occurs, Lessor agrees to take all action necessary to eliminate such interference within thirty (30) days. If the interference cannot be eliminated within thirty (30) days, Lessee may terminate this Lease.

10. **Termination.** (a) Except as otherwise provided herein, this Lease may be terminated upon not less than sixty (60) days written notice to the other party as follows:

(i) by either party upon a default in the performance of any covenant or term hereof by the other party, which default is not cured within thirty (30) days of receipt of written notice of the default (without, however, limiting any other rights of the parties pursuant to any other provisions hereof);

(ii) subject to the provisions of Paragraph (6)d of this Lease, by Lessee if it is unable to obtain or maintain any Governmental Approval necessary to the operation of Lessee's Facilities or of Lessee's business;

(iii) by Lessee if Lessee's Facilities are destroyed or damaged by an act of God so as to, in the Lessee's judgment, substantially impair Lessee's effective use of Lessee's Facilities, upon thirty (30) days' written notice to Lessor, which notice must be given within thirty (30) days of the date of such destruction or damage. If Lessee so terminates this Lease, Lessee shall be entitled to reimbursement of prepaid Rent covering the period subsequent to the date of destruction or damage;

(iv) by Lessor upon twelve (12) months' notice, if it determines that a potential user which is a public safety agency of the federal or state government or of the City of Staunton cannot obtain another adequate location;

(v) by Lessor, if the Staunton City Council determines that Lessee's use of the Leased Premises is not in compliance with any applicable ordinance, or state or federal law, or any conditions of any Governmental Approval, and Lessee fails to cure such non-compliance within thirty (30) days after such determination is rendered. Such failure shall be a default of Lessee's obligations under the terms of this Lease;

(vi) by Lessee, if Lessee is unable to continue to occupy and utilize the Leased Premises due to an action of the FCC, including, without limitation, a take-back of channels or change or reallocation of the frequencies at which Lessee may operate its communications facilities which renders Lessee's operation of its communications facilities at the Leased Premises obsolete; or

(vii) by Lessee upon sixty (60) days written notice for any reason, so long as Lessee pays Landlord a termination fee equal to one half the then current annual rent. The parties acknowledge that such termination fee shall be required only in the event of termination by Lessee for reasons other than those described here in Subparagraphs 10(a)(i) through 10(a)(vi), Paragraph 9 or Paragraph 14 of this Lease.

(viii) by Lessee, if Lessee is unable to obtain or maintain access to the Leased Premises.

(ix) by Lessor or Lessee pursuant to the provisions of Paragraph 9 or pursuant to the provisions of Paragraph 14

(b) Notice of any termination pursuant to this Paragraph shall be in writing and provided pursuant to the provisions of Paragraph 17. Lessee shall be liable to Lessor for all Rent and other consideration under Paragraph 3 of this Lease for the period of this Lease prior to said termination date except as otherwise provided herein.

(c) Upon termination or expiration of this Lease, Lessee shall have sixty (60) days from the date of termination or expiration to remove Lessee's Facilities and related equipment from the Leased Premises and to restore the Leased Premises to their condition prior to installation of Lessee's Facilities, ordinary wear and tear and damage caused by casualty, Lessor or third parties excepted. If Lessee fails to remove its facilities from the Leased Premises within the time allowed, Lessor may (i) declare the facilities abandoned and title to the facilities shall be transferred to the Lessor, (ii) have such facilities removed and stored for thirty (30) days in which case Lessee shall pay to Lessor the costs incurred for such removal and storage., or (iii) obtain an injunction to require Lessee to remove the facilities for which the Lessee hereby stipulates the Lessor would absent such injunction suffer irreparable harm and have no adequate remedy at law. Lessor shall provide written notice to Lessee prior to taking the actions outlined in this subparagraph (c).

11. **Default:** (a) The following will be deemed a default by Lessee and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after receipt of written notice from Lessor of such failure to pay; or (ii) Lessee's failure to perform any other term or condition under this Agreement within forty-five (45) days after receipt of written notice from Lessor specifying the failure. No such failure, however, will be deemed to exist if Lessee has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Lessee. In the event of any default of this Lease by Lessee not cured by Lessee within the applicable cure period, Lessor may at any time, after notice, cure the default for the account of and at the expense of Lessee. If Lessor is compelled to pay or elects to pay any sum of money or to do any act which will require the payment of any sum of money or is compelled to incur any expense, including reasonable attorney and other professional fees in instituting, prosecuting, or defending any action to enforce the Lessor's rights under this Lease, the sums so paid by Lessor, with all interest, costs and damages shall be deemed to be additional Rent and shall be due from the Lessee to Lessor on the first day of the month following ten (10) day's written notice by Lessor and submission by Lessor to Lessee of an itemized statement, with supporting evidence, of Lessor's costs and expenses.

(b) The following shall be deemed a default by Lessor and a breach of this Agreement: Lessor's failure to perform any term, condition or cure breach of any warranty or covenant under this Agreement within forty-five (45) days after receipt of written notice from Lessee specifying the failure. No such failure, however, will be deemed to exist if Lessor has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Lessor. If Lessor remains in default beyond any applicable cure period, after notice from Lessee, Lessee will have the right to cure Lessor's default and to deduct the reasonable costs of such cure from any monies due to Lessor from Lessee. In the event Lessee deducts such costs from monies due Lessor, Lessee will provide Lessor with an itemized statement and supporting documentation.

12. **Condemnation.** In the event the Leased Premises is taken by eminent domain by the state or federal government, or any instrumentality thereof, or by the City of Staunton, this Lease shall terminate as of the date title to the Leased Premises vests in the condemning

authority. In the event a portion of the Leased Premises is taken by eminent domain, either party shall have the right to terminate this Lease as of said date of title transfer by giving thirty (30) days' written notice to the other party. In the event this Lease is not thereby terminated, Rent shall be reduced or abated in proportion to the actual reduction or abatement of use of the Leased Premises. Lessor and Lessee shall each be entitled to pursue its own separate awards in the event of a taking of the Leased Premises.

13. **Defense and Indemnification.** (a) Lessee agrees to defend, indemnify and hold harmless Lessor and its elected officials, officers, employees, agents, and representatives from and against any and all claims, costs, losses, expenses, demands, actions, or causes of action, including reasonable attorneys' fees and other costs and expenses of litigation, arising from the negligence, willful misconduct, or other fault of Lessee. Lessee shall defend all claims arising out of Lessee's use of the Leased Premises and out of the installation, operation, use, maintenance, repair, removal, or presence of Lessee's Antenna Facilities, equipment and related facilities on the Leased Premises.

(b) Notwithstanding anything to the contrary contained in this Lease, Lessor and Lessee each waives any claims that each may have against the other with respect to consequential, incidental or special damages.

14. **Environmental.** (a) Lessor represents and warrants to the best of its knowledge that the Owned Property is free of hazardous substances as of the date of this Agreement and to the best of Lessor's knowledge, the Owned Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Lessor and Lessee agree that each will be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guideline, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in or on the Owned Property.

(b) Lessee agrees to defend, hold harmless and indemnify Lessor from and to assume all duties, responsibilities and liabilities at the sole cost and expense of Lessee for payment of penalties, sanctions, forfeitures, losses, costs or damages and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) Lessee's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Owned Property and the activities conducted thereon by Lessee, unless the environmental conditions are caused by Lessor.

(c) The indemnifications of this Paragraph 14 Environmental specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Paragraph 14 Environmental will survive the expiration or termination of this Lease.

(d) In the event Lessee becomes aware of any hazardous materials on the Owned Property, or any environmental or industrial hygiene condition or matter relating to the Owned Property that, in Lessee's sole determination, renders the condition of the Premises or Owned

Property unsuitable for Lessee's use, or if Lessee believes that the leasing or continued leasing of the Premises would expose Lessee to undue risks of government action, intervention or third-party liability, Lessee will have the right, in addition to any other rights it may have at law or in equity, to terminate the Lease upon notice to Lessor.

15. **Insurance.** (a) During the Term of this Lease, Lessee shall maintain, or cause to be maintained, in full force and effect and at its sole cost and expense, the following types and limits of insurance. All policies other than those for Worker's Compensation shall be written on an occurrence and not on a claims-made basis. The coverage amounts set forth below may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

i. Worker's compensation insurance meeting applicable statutory requirements and employer's liability insurance with minimum limits of Two Hundred Thousand Dollars (\$200,000.00) for each accident.

ii. Commercial general liability insurance with minimum limits of Two Million Dollars (\$2,000,000.00) as the combined single limit for each occurrence of bodily injury, personal injury and property damage. The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for products and completed operations liability, independent contractor's liability; coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage; and broad form property damage coverage. Lessor shall be named as an additional insured under such policy.

iii. Automobile liability insurance covering all owned, hired and non-owned vehicles in an amount not less than Two Million Dollars (\$2,000,000.00) combined single limits.

(b) Certificates of insurance for each insurance policy required to be obtained by Lessee in compliance with this paragraph shall be filed with Lessor annually during the term of the Lease and shall include a requirement that Lessor shall be notified in writing not less than ten (10) days prior to any modification or cancellation of any insurance. Lessee shall immediately advise Lessor of any claim or litigation that may result in any demand upon or possible liability to Lessor.

(c) All insurance shall be written by insurers licensed to conduct the business of insurance in the Commonwealth of Virginia.

(e) Lessee shall require that each and every one of its contractors and their subcontractors who perform work on the Leased Premises carry, in full force and effect, workers' compensation, comprehensive public liability and automobile liability insurance coverages of the type which Lessee is required to obtain under the terms of this paragraph with like limits of insurance.

16. **Assignment and Sublease.** (a) This Lease, and the rights hereunder, may not be sold, assigned, or transferred at any time by Lessee except upon prior written notice to Lessor and with Lessor's written consent, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, that Lessee may assign its interest to its parent company, any subsidiary or affiliate of it or its parent company or to any successor-in-interest or entity

acquiring of its assets, or to entity controlling, controlled by or under common control with Lessee, without Lessor's consent. Lessee shall be relieved of all future performance, liabilities and obligations under this Lease upon such assignment. Subject to the other provisions of this Lease, Lessee shall have the right to sublet all or a portion of the Leased Premises without Lessor's consent, but shall remain liable to Lessor for the payment of Rent and all other payments from and other obligations of Lessee required or contemplated by this Lease unless otherwise consented to, in writing, by Lessor. Notwithstanding anything to the contrary contained in this Lease, Lessee may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Lease to any financing entity, or agent on behalf of any financing entity to whom Lessee (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

(b) This Lease shall run with the property and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives, heirs and assigns.

(c) Lessee understands and agrees that Lessor may rent tower space upon the water tower to another person, firm, or corporation as long as the equipment placed on the tower by such other entity does not interfere with the operation of Lessee hereunder.

17. **Notices.** All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, addressed as follows or if sent by facsimile to the facsimile number set forth below, with a hard copy contemporaneously mailed as previously specified:

If to Lessor to: City Manager
 PO Box 58
 Staunton, VA 24402-0058

With a copy to: City Attorney
 PO Box 58
 Staunton, VA 24402-0058

If to Lessee to: New Cingular Wireless PCS, LLC
 c/o Cingular Wireless LLC
 Attn: Network Real Estate Administration
 Re: Cell Site # SW-R-801; City Water Tank
 6100 Atlantic Boulevard
 Norcross, GA 30071

With a copy to: Cingular Wireless LLC
 Attn: Legal Department
 Re: Cell Site # SW-R-801; City Water Tank
 15 E Midland Avenue
 Paramus, NJ 07652

Lessor and Lessee may from time to time designate any other address for this purpose by written notice to the other party.

18. **Miscellaneous Provisions.** (a) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease shall be effective only if made in writing and executed and acknowledged by both parties.

(b) Each party agrees to cooperate with the other in executing or having executed any documents (including a Memorandum of Lease in a form acceptable to both parties, Non-Disturbance Agreements, easement agreements, or other documents) necessary to protect its rights or use of the Leased Premises. Either party may record a Memorandum of Lease or easement agreement, but neither party may record this Lease.

(c) This Lease shall be construed in accordance with the laws of the Commonwealth of Virginia. Any court action relating to this Lease may be maintained only in the Circuit Court of the City of Staunton.

(d) If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The parties intend that the provisions of this Lease be enforced to the fullest extent permitted by applicable law. Accordingly, the parties shall agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable.

(e) The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their representative capacities as indicated.

(f) The submission of this document for examination does not constitute an offer to lease or a reservation of or option for the Leased Premises and shall become effective only upon execution by both parties.

(g) This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

(h) Intentionally deleted.

(i) This Lease shall be governed as to all matters, whether of validity, interpretation, obligations, performance or otherwise, exclusively by the laws of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Lease shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia.

(j) During the performance of this Lease, the Lessee agrees that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, veteran status or national origin, except where religion, sex, handicap, or national origin is a bona fide occupational qualification or consideration reasonably necessary to the normal operation of the Lessee. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Lessee, in all solicitations or advertisements for employees placed

by or on behalf of the Lessee, will state that such Lessee is an equal opportunity employer. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements herein.

(k) Lessee hereby certifies that it did not, directly or indirectly, enter into any combination or arrangement with any person, firm or corporation or enter into any agreement, participate in any collusion, or otherwise take any action in restraint of free, competitive bidding for this Lease in violation of any of the laws of the United States or the Commonwealth of Virginia.

(l) Lessee represents and warrants that, as of the date of its execution of this Lease, it is the holder of a valid license issued by the Federal Communications Commission to construct and operate radio transmitting facilities within a territory including the City of Staunton pursuant to Section 309 (h) of the Communications Act of 1934 (47 U.S.C. 309 (h)). Lessee hereby agrees that, if for any reason such license is revoked or otherwise terminated, it will immediately so notify Lessor, and Lessee shall have the right to terminate this Lease pursuant to Paragraph 10(a)(vi) of this Lease.

19. **Tests and Constructions.** Lessee shall have the right following the full execution of this Lease, upon the giving of forty-eight (48) hours' advance notice to Lessor, to enter upon the Owned Premises for the purpose of making appropriate engineering and boundary surveys, inspections, soil test borings or other reasonably necessary tests. In the event of any inconsistency between this Lease and any survey performed, Lessor shall make such amendments to this Lease and adjustments in the location of Leased Premises as shall be reasonably for Lessee's use and satisfactory to Lessee. If the title search or the survey discloses any matters which Lessee deems unsuitable or which interfere with Lessee's use and enjoyment of the Leased Premises, Lessor shall cure such defects within sixty (60) days. If Lessor does not or cannot cure such defect within such sixty (60) days, Lessee shall have the right, without obligation, to terminate this Lease and render it null and void from the date of termination.

20. **RF Compliance.** (a) Subsequent to the installation of Lessee's Facilities, Lessor shall not knowingly permit itself, its lessees or licensees to install new equipment on the Owned Premises or property contiguous thereto owned or controlled by Lessor, if such equipment will cause the Owned Premises to exceed the FCC radiated power density maximum permissible exposure (AMPE) limits for workers and the general public. Such excess radiated power densities shall be deemed a material breach by Lessor. In the event excess radiated power densities occur, Lessor agrees to take or to cause any subsequent lessee or licensee whose use of the Owned Premises results in the FCC specified MPE limits being exceeded to promptly take all mitigation action necessary to eliminate such excess radiated power densities within thirty (30) days. In the event Lessor fails to comply with this paragraph, Lessee may terminate this Lease and/or pursue any other remedies available under this Lease, at law, and/or at equity, including injunctive relief.

21. **Marking and Lighting Requirements.** (a) Lessee shall be responsible for compliance with all marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC in the event those requirements are the result of the presence of Lessee's Facilities on the Leased Premises. Further, Lessee shall pay for such reasonable costs and expenses (including for any lighting automated alarm system), provided that the requirement for compliance results from the presence of Lessee's Facilities on the Leased Premises. Should Lessor be cited because the Owned Premises is not in compliance due to the presence of Lessee's Facilities on the Leased Premises, and should Lessee fail to cure the conditions of

noncompliance, Lessor may either terminate this Lease or proceed to cure the conditions of noncompliance at Lessee's expense. All sums so paid by Lessor, with all interest, costs, and damages shall be deemed to be additional Rent and shall be due from the Lessee to Lessor on the first day of the month following ten (10) day's written notice by Lessor and submission by Lessor to Lessee of an itemized statement, with supporting evidence, of Lessor's costs and expenses.

(b) If lighting requirements apply and a lighting automatic alarm system has been installed by Lessor, Lessor shall allow Lessee to bridge in to the system to permit a parallel alarm or to install a second alarm if a bridge would interfere with Lessor's alarm. Lessee shall be responsible for the cost and expense of maintaining the bridge or parallel alarm. Notwithstanding anything in this Paragraph 21(b), the responsibility for compliance with FAA and FCC requirements shall remain with Lessor as provided in Paragraph 21(a) above.

22. **Waiver of Lessor's Lien.** (a) Lessor waives any lien rights it may have concerning Lessee's Facilities which are deemed Lessee's personal property and not fixtures, and Lessee has the right to remove the same at any time without Lessor's consent.

(b) Intentionally deleted.

23. **Brokers.** Lessor and Lessee represent to each other that they have not negotiated with any real estate broker in connection with this Lease. Lessor and Lessee agree that, should any claim be made against the other for a real estate broker's commission, finder's fee or the like by reason of the acts of such party, the party upon whose acts such claim is based shall indemnify and hold the other party free and harmless from all losses, damages, claims and expenses in connection therewith.

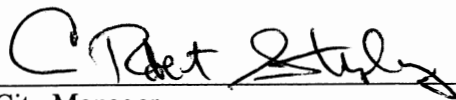
24. **Taxes.** Lessee shall be responsible for paying all personal property taxes assessed upon Lessee's Facilities and for paying taxes on its leasehold interest pursuant to Virginia Code Section 58.1-3203, or any successor statute.

25. **Appropriations.** The obligations of the Lessor are contingent upon and subject to sufficient funds appropriated for purposes of this Agreement.

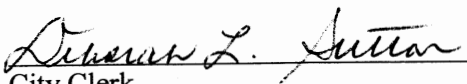
IN WITNESS WHEREOF, the parties hereto have respectively executed this Lease to be effective as of the date hereinabove stated.

Lessor:
CITY OF STAUNTON

by:


City Manager

ATTEST:

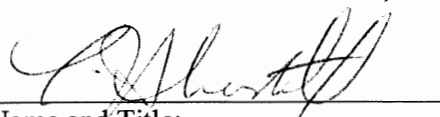

City Clerk

APPROVED AS TO LEGAL:
FORM.


Department of Law

Lessee:
NEW CINGULAR WIRELESS PCS, LLC

by:


Name and Title:
Frank J. Shortall
Manager, Real Estate
and Construction

Acknowledgements appear on the following page.

COMMONWEALTH OF VIRGINIA

CITY OF STAUNTON

I, Deborah L. Sutton, a Notary Public of the City and State aforesaid, do hereby certify that C. Robert Stripling of the City of Staunton whose name as such is signed to the foregoing Lease Agreement, has acknowledged the same before me in my City and State aforesaid.

GIVEN under my hand this 27th day of February, 2006.

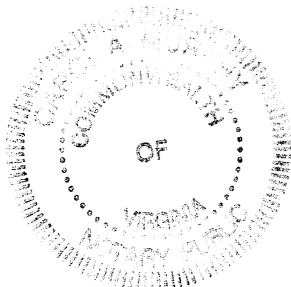
Deborah L. Sutton
Notary Public

My Commission Expires: 2-28-2010

COMMONWEALTH OF VIRGINIA

COUNTY OF HENRICO

I, Carol A. Murphy, a Notary Public of the County and State aforesaid, certify that Frank J. Shortall personally came before me this day and acknowledged that he is Mgr, RE & CONSTRUCTION for New Cingular Wireless PCS, LLC, and that by authority duly given and as an act of the Company, he signed the foregoing instrument. Witness my hand and official stamp or seal, this 23rd day of January, 2006.



Carol A. Murphy
Notary Public

My Commission Expires: **Carol A. Murphy**
My Commission Expires
December 31, 2009

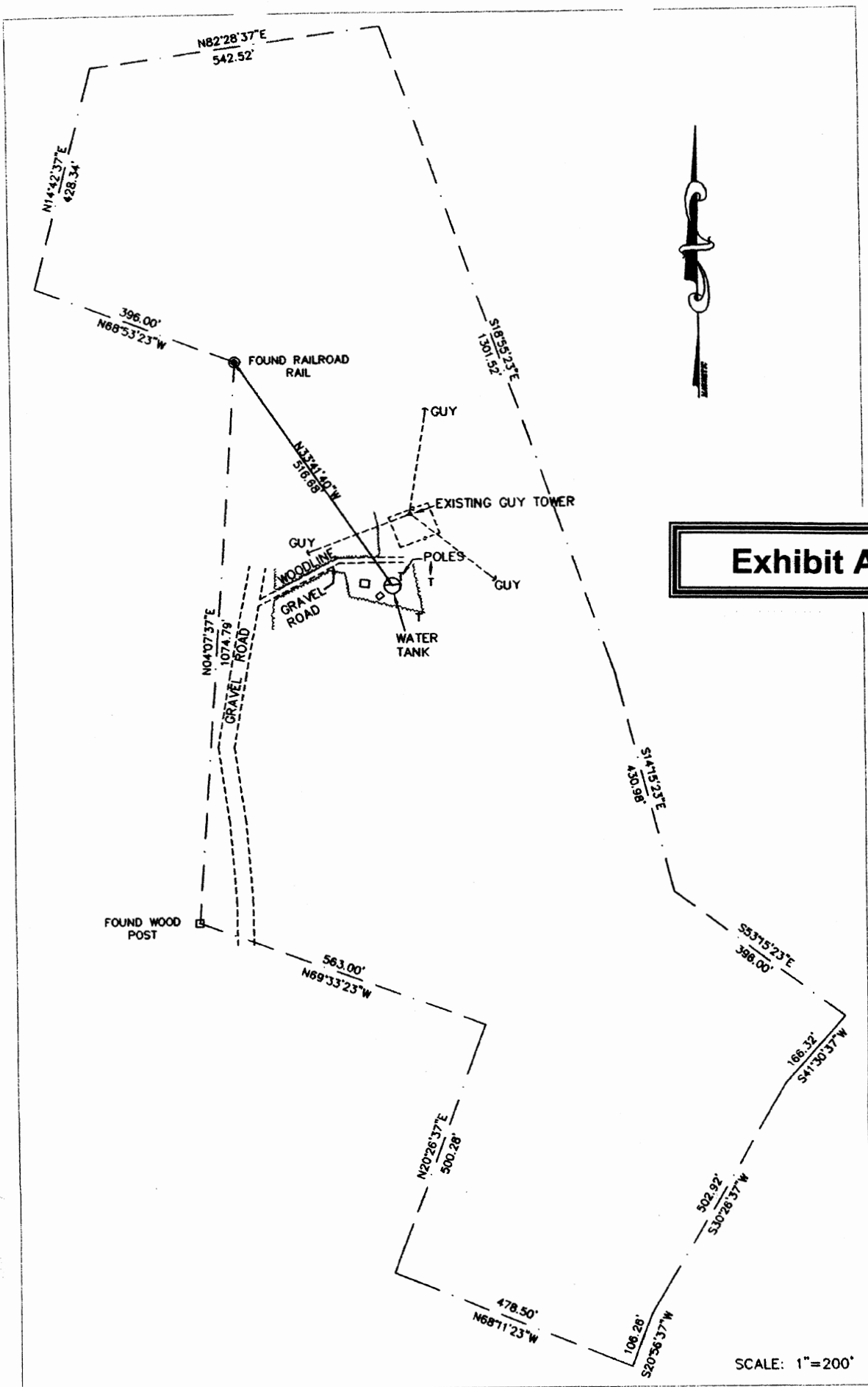
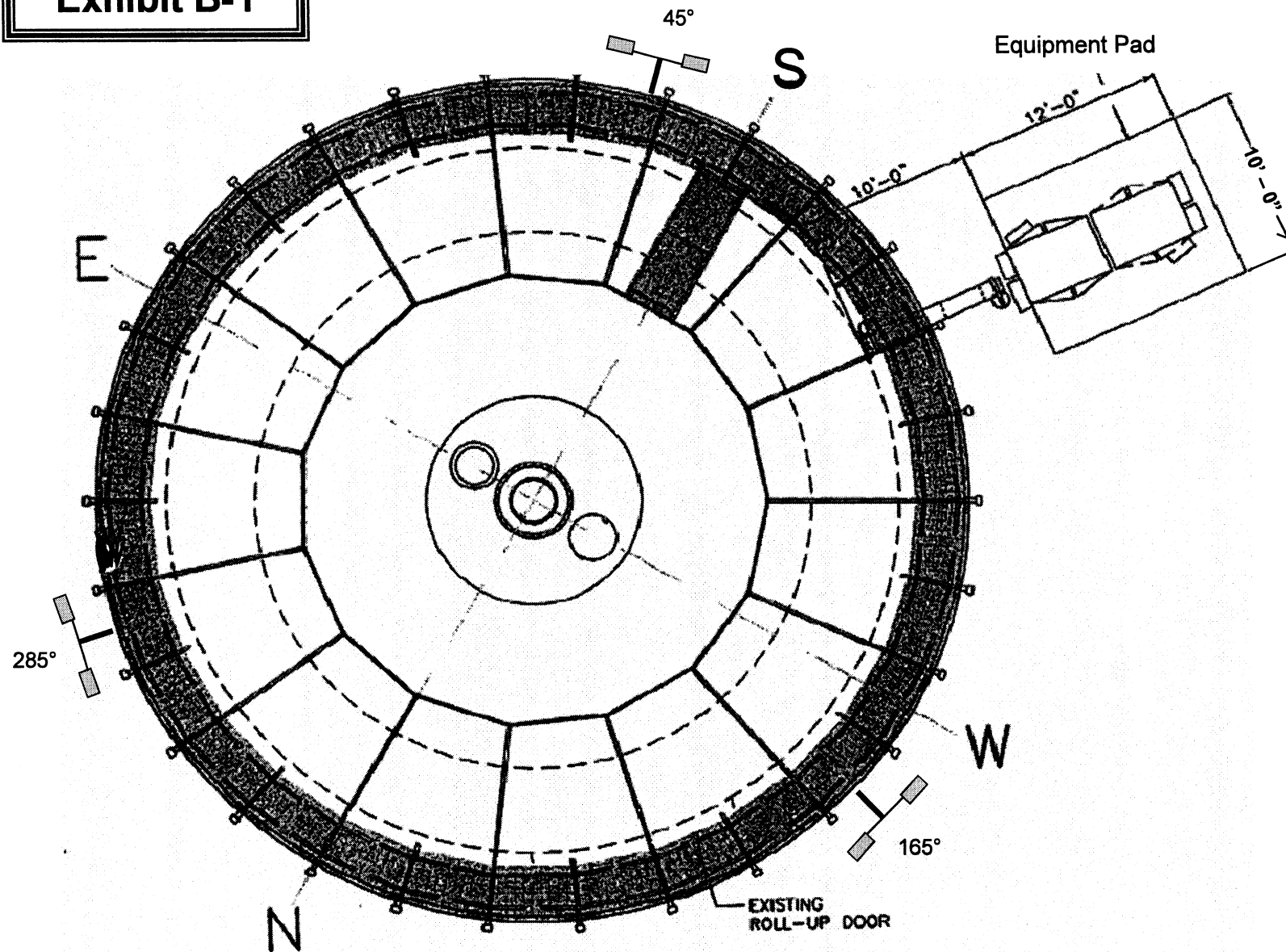


Exhibit A

SCALE: 1"=200'

Exhibit B-1



Note: Antennas are not drawn to scale

CURRENT CONFIGURATION:

Six Panel Antennas (Three Sectors with Two Antennas Per Sector)

Exhibit B-2

Maximum Total Loading:

12 panel antennas

12 feed lines

6 amplifiers

Maximum Ground Space:

12' x 20'

Cell Site No: SW-R-801
FA No: 10067599
Site Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT ("Amendment") dated as of the later date below is by and between the City of Staunton, a municipal corporation of the Commonwealth of Virginia, having a mailing address at PO Box 58, Staunton, VA 24402-0058 (hereinafter referred to as "Lessor") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address at 12555 Cingular Way, Alpharetta, GA 30004 (hereinafter referred to as "Lessee").

WHEREAS, Lessor and Lessee entered into a Lease Agreement dated December 14, 2005, whereby Lessor leased to Lessee certain Leased Premises, therein described, that are a portion of the Property located at 1876 Shutterlee Mill Road, Staunton, VA 24401 ("Agreement"); and

WHEREAS, Lessor and Lessee desire to extend the term of the Agreement; and

WHEREAS, Lessor and Lessee, in their mutual interest, further wish to amend the Agreement as set forth below.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. **Term.** The Term of the Agreement shall be amended to provide that the Agreement has a new initial term of 60 months ("New Initial Term"), commencing retroactively on December 14, 2010 ("New Commencement Date").

2. **Rent.** Sections 3(a) and 3(b) of the Agreement are hereby deleted in their entirety and replaced with the following: "3(a-b) During the New Initial Term, Lessee shall pay to Lessor as rent for the Leased Premises the sum of \$3,065.97 per month, due on the first day of the month, increasing annually effective as of each anniversary of the New Commencement Date by an amount equal to 4 percent of the previous month's rent. In partial months rent shall be prorated." The parties acknowledge and agree that Lessee has fully paid all rent due and owing to Lessor as of the date of this Amendment, including but not limited to prorated rent from the New Commencement Date through December 31, 2010.

3. **Termination.** This lease may be terminated in accordance with the provisions of the Agreement.

4. **Acknowledgement.** Lessor and Lessee acknowledge that: 1) this Amendment is entered into with free will and volition; and 2) they have read and understand this Amendment and the underlying Agreement and, prior to execution of the Amendment, were free to consult with counsel of their choosing regarding the decision to enter into this Amendment and to have counsel review the terms and conditions of the Amendment.

Cell Site No: SW-R-801
FA No: 10067599
Site Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

5. **Notices.** Section 17 of the Agreement is hereby deleted in its entirety and replaced with the following: NOTICES. All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to Lessee:

New Cingular Wireless PCS, LLC
c/o Network Real Estate Administration
Cell Site: SW-R-801 / City Water Tank (VA)
Fixed Asset No. 10067599
12555 Cingular Way, Suite 1300
Alpharetta, GA 30004

With a required copy of the notice sent to AT&T Legal at:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Cell Site: SW-R-801 / City Water Tank (VA)
Fixed Asset No. 10067599
340 Mt. Kemble Avenue
Morristown, NJ 07960-6656

The copy sent to AT&T Legal Department is an administrative step which alone does not constitute legal notice.

If to Lessor:

City Manager
City of Staunton
PO Box 58
116 W. Beverly Street
Staunton, VA 24402-0058/24401

With a required copy of the notice also sent to:

City Attorney
City of Staunton
PO Box 58
116 W. Beverly Street
Staunton, VA 24402-0058/24401

And to:

Director of Public Works

Cell Site No: SW-R-801
FA No: 10067599
Site Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

City of Staunton
PO Box 58
1876 Shutterlee Mill Road
Staunton, VA 24402-0058/24401

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

6. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Agreement and this Amendment, the terms of this Amendment shall control. Except as expressly set forth in this Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this Amendment.

7. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the last date written below.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Cell Site No: SW-R-801
FA No: 10067599
Site Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

LESSOR

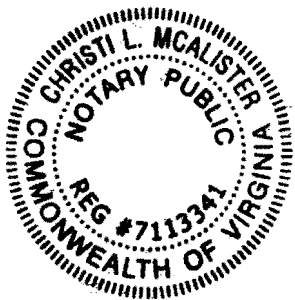
City of Staunton, a municipal corporation of the
Commonwealth of Virginia

By: [Signature]
Print Name: Stephen F. Owen
Its: City Manager
Date: April 29, 2011

LESSOR ACKNOWLEDGMENT

COMMONWEALTH OF VIRGINIA)
CITY OF STAUNTON) SS:

The foregoing instrument was acknowledged before me this April 29,
2011, by Steve Owens (name of person acknowledged).



[Signature]
(Signature of Person Taking Acknowledgement)
Notary Public Christi McAulister
(Title or Rank) (Printed Name)
7113341 10/31/2011
(Registration Number) (Commission Expiration Date)

Cell Site No: SW-R-801
FA No: 10067599
Site Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

LESSEE

New Cingular Wireless PCS, LLC
By: AT&T Mobility Corporation
Its Manager

By:

Print Name: David C. Tuck
Manager,

Its: **Real Estate and Construction**

Date:

LESSEE ACKNOWLEDGMENT

COMMONWEALTH OF VIRGINIA)
) SS:
COUNTY OF HENRICO)

The foregoing instrument was acknowledged before me this April 14, 2011, by David C. Tuck
Manager,
Real Estate and Construction (name of officer or agent, title of officer or agent) of New Cingular Wireless PCS, LLC, a Delaware limited liability company, on behalf of the limited liability company.



(Signature of Person Taking Acknowledgement)

Notary Public
(Title or Rank)

(Printed Name)

(Registration Number)

(Commission Expiration Date)



10590 West Ocean Air Drive
Suite 300
San Diego, CA 92130

February 3, 2016

City of Staunton
Attn: Steve Rosenberg
P.O. Box 58
Staunton, VA 24402-0058

Re: FA Number: 10067599
Cell Site Name: CITY WATER TANK
1876 Shutterlee Mill Road, Staunton, VA 24401 (Property)

Dear Mr. Rosenberg,

In connection with the Second Amendment to Lease Agreement between City of Staunton (Lessor), and New Cingular Wireless PCS, LLC (Lessee), enclosed please find a check in the amount of \$854.54 for the invoice the City of Staunton submitted to Lessee for reimbursement of advertising fees. Md7 is paying this reimbursement on behalf of the Lessee.

If you have any questions regarding the enclosed document, please contact me at (858) 754-2154 or by email at bestes@md7.com.

Sincerely,

A handwritten signature in black ink that reads 'Ben Estes'.

Ben Estes

Enclosures

Cell Site No.: SW801

Cell Site Name: CITY WATER TANK

Fixed Asset No.: 10067599

Market: VA / WV

Address: 1876 Shutterlee Mill Road (having a current address in the City of Staunton's addressing system of 1911 Craigmont Road)

1. **Extension of Term.** The term of the Agreement shall be extended to provide that the Agreement shall one have (1) additional term of five (5) years ("**Term**") commencing on December 14, 2015.

2. **Rent.** Commencing on December 14, 2015, the current rent payable under the Agreement shall be Forty-Three Thousand Nine Hundred One and 88/100 Dollars (\$43,901.88) annually (the "Rent"). The Rent shall be payable annually in advance on December 14th of each year and shall continue during the Term, subject to adjustment as provided herein. Section 3(b) of the Agreement shall be amended to provide that Rent shall be adjusted as follows: commencing on December 14, 2016, and every year thereafter on December 14th, the annual Rent will increase by four percent (4%) over the Rent paid the previous year.

3. **Termination.** This Lease may be terminated in accordance with the provisions of the Agreement.

4. **Acknowledgement.** Lessor acknowledges that: 1) this Second Amendment is entered into of the Lessor's free will and volition; 2) Lessor has read and understands this Second Amendment and the underlying Agreement and, prior to execution of this Second Amendment, was free to consult with counsel of its choosing regarding Lessor's decision to enter into this Second Amendment and to have counsel review the terms and conditions of this Second Amendment.

5. **Hearing Notice Expense.** Lessee, upon receipt of documentation of the City's payment of an invoice for such, shall reimburse Lessor for the expense of newspaper publication of the public hearing notice related to the Staunton City Council's consideration of this Second Amendment.

6. **Notices.** Section 17 of the Lease Agreement of the Agreement is hereby deleted in its entirety and replaced with the following:

"NOTICES. All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to Lessee:

New Cingular Wireless PCS, LLC

Attn: Network Real Estate Administration

Re: Cell Site # SW801

Cell Site Name: CITY WATER TANK (VA); Fixed Asset No.: 10067599

575 Morosgo Drive

Atlanta, GA 30324

Cell Site No.: SW801
Cell Site Name: CITY WATER TANK
Fixed Asset No.: 10067599
Market: VA / WV
Address: 1876 Shutterlee Mill Road (having a current address in the City of Staunton's addressing system of 1911 Craigmont Road)

With a required copy of the notice sent to the address above to AT&T Legal at:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Re: Cell Site # SW801
Cell Site Name: CITY WATER TANK (VA); Fixed Asset No: 10067599
208 S. Akard Street
Dallas, Texas, 75202-4206

A copy sent to the Legal Department is an administrative step which alone does not constitute legal notice.

And as to Lessor:

City of Staunton
Attn: City Manager, Finance Director and Public Works Director
116 West Beverley Street
P.O. Box 58
Staunton, VA 24402
Re: New Cingular Wireless PCS, LLC Lease Agreement

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein."

7. Other Terms and Conditions Remain. In the event of any inconsistencies between the Agreement and this Second Amendment, the terms of this Second Amendment shall control. Except as expressly set forth in this Second Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this Second Amendment.

8. Capitalized Terms. All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.

[NO MORE TEXT ON THIS PAGE - SIGNATURES TO FOLLOW ON NEXT PAGE]

Cell Site No.: SW801

Cell Site Name: CITY WATER TANK

Fixed Asset No.: 10067599

Market: VA / WV

Address: 1876 Shutterlee Mill Road (having a current address in the City of Staunton's addressing system of 1911 Craigmont Road)

IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute this Second Amendment on the dates set forth below.

Lessor:

City of Staunton,
a municipal corporation of the
Commonwealth of Virginia

By: 

Name: Stephen F. Owen

Title: City Manager

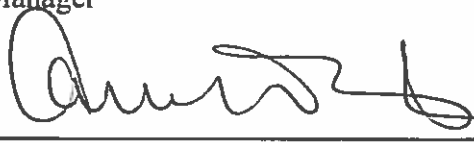
Date: 1-4-16

Lessee:

New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation

Its: Manager

By: 

Name: CAROL A. MURPHY

Title: SR Mgr., R.E. & C

Date: 1/29/16

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

Cell Site No.: SW801

Cell Site Name: CITY WATER TANK

Fixed Asset No.: 10067599

Market: VA / WV

Address: 1876 Shutterlee Mill Road (having a current address in the City of Staunton's addressing system of 1911 Craigmont Road)

LESSOR ACKNOWLEDGEMENT

STATE OF VA)
City)
COUNTY OF Staunton)

I CERTIFY that on January 4, 201⁶~~5~~, Stephen F. Owen personally came before me and acknowledged that he:

- (a) is the City Manager of the City of Staunton, the corporation named in the attached instrument,
- (b) was authorized to execute this instrument on behalf of the corporation and
- (c) executed the instrument as the act of the corporation.

Notary Public: Brenda Hess Orelough
My Commission Expires: April 30, 2019



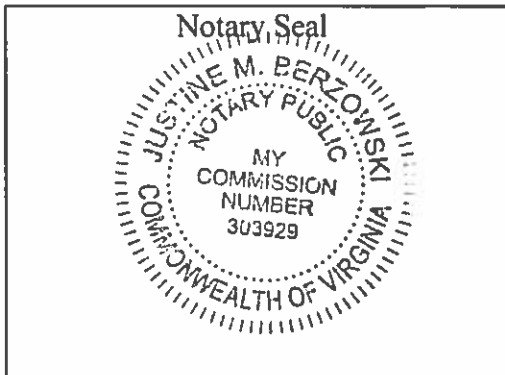
Cell Site No.: SW801
Cell Site Name: CITY WATER TANK
Fixed Asset No.: 10067599
Market: VA / WV
Address: 1876 Shutterlee Mill Road (having a current address in the City of Staunton's addressing system of 1911 Craigmont Road)

LESSEE ACKNOWLEDGEMENT

STATE OF Virginia)
) SS.
COUNTY OF Henrico)

I certify that I know or have satisfactory evidence that Carola A. Murphy is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she is authorized to execute the instrument for AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: January 29, 2016.



Justin M. Berzowski
(Signature of Notary)

(Legibly Print or Stamp Name of Notary)
Notary Public in and for the State of

VA
My appointment expires: June 30, 2018

Cell Site No.: SW801

Cell Site Name: CITY WATER TANK

Fixed Asset No.: 10067599

Market: VA / WV

Address: 1876 Shutterlee Mill Road (having a current address in the City of Staunton's addressing system of 1911 Craigmont Road)

Exhibit A

Copy of Agreement

LEASE AGREEMENT

THIS LEASE, dated this 14th day of December, 2005 for identification, is made by and between the City of Staunton, a municipal corporation of the Commonwealth of Virginia ("Lessor") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having its principal place of business at 6100 Atlantic Boulevard, Norcross, GA, 30071, ("Lessee"),

WITNESSETH:

WHEREAS, Lessor is the owner of a parcel of land (the Owned Premises) situated in the City of Staunton, Virginia, legally described on the attached Exhibit A, on which a municipal water tower (the "Water Tower") is located; and

WHEREAS, Lessee is a telecommunications carrier, as defined in Section 3 of the Communications Act of 1934 (47 U.S.C. 153) and is licensed to provide personal wireless telecommunications service to the general public within the City of Staunton; and

WHEREAS, on the 17th day of April, 2000, Lessor entered into an agreement with Triton PCS Property Company, LLC ("Triton") which allowed Triton to install a circumferential ring or "halo" around the main body of the Water Tower along with certain equipment necessary for the operation of a personal wireless telecommunications facility (the "Initial Contract"); and

WHEREAS, Triton subsequently assigned the Initial Contract to Triton Network SMLLC, LLC; and

WHEREAS, Lessee subsequently purchased Triton Network SMLLC, LLC from Triton thereby becoming successor-in-interest to Triton under the Initial Contract; and

WHEREAS, the Initial Contract is due to expire December 13, 2005; and

WHEREAS, Lessee desires to continue to lease the space on the Water Tower, and to continue to lease a portion of the aforesaid parcel for the purpose of constructing, operating and maintaining certain facilities for the purpose of providing personal wireless telecommunications service to the general public;

NOW, THEREFORE, for good and valuable consideration, the parties do hereby agree as follows:

1. **Leased Premises.** (a) Lessor leases to Lessee, and Lessee leases from Lessor, space on the Water Tower for the purpose of constructing, maintaining, and operating antennas, connecting cables and appurtenances (collectively, the Antenna Facilities), and a portion of the aforesaid parcel, together with such assignable easements as the City may possess for vehicular and pedestrian access and the installation, maintenance and replacement of necessary utilities, wiring, cables and other conduits, for the construction, maintenance and operation of an Accessory Building housing equipment to be used in conjunction with the Antenna Facilities (the Ground Facilities) as more fully described herein.

(b) The current configuration of the Antenna Facilities and the Ground Facilities is shown on the attached Exhibit B-1. Subject to requirements outlined in elsewhere in this agreement, including but not limited to sections 6 and 7, Lessee shall have the right to increase

the number of antennas on the tank and the footprint of its Accessory Building to the number and dimensions shown in Exhibit B-2 with no corresponding increase in Rent. The space where the Antenna Facilities and the Ground Facilities are located shall be referred to as the Leased Premises. The Antenna Facilities and the Ground Facilities shall be jointly referred to as the Lessee's Facilities.

2. **Term.** The term of this Lease shall be five (5) years, commencing on December 14, 2005 (the Commencement Date), and ending on December 13, 2010 (the Term).

3. **Rent.** (a) Lessee shall pay to Lessor as rent for the Leased Premises the sum of \$30,240 per year, due on the first day of each year of the term in advance.

(b) The Rent shall be increased annually effective as of each anniversary of the Commencement Date by an amount equal to 4 percent of the previous year's rent.

(c) Intentionally deleted.

(d) Lessee shall pay to Lessor all actual and reasonable increased costs of maintenance of the Leased Premises directly attributable to Lessee's use and occupancy thereof within thirty (30) days of presentation to Lessee of an itemized statement delineating such increased costs, accompanied by reasonable documentation supporting such costs.

(e) All sums due by Lessee hereunder shall be paid within (5) days of the due date or the notice of payment due sent by Lessor to Lessee. Payments not made within said time shall incur a late payment fee of 5 percent (5%) of the amount due and, in addition, shall incur interest at the rate of 1 percent (1%) per month measured from the due date.

(f) Subject to the provisions of Paragraph 6(d) and Paragraph 10(b), in the event of termination of this Lease, all prepaid Rent shall be refunded to Lessee, without interest, within sixty (60) days of the effective date of such termination.

4. **Contingencies.** (a) Lessor may hire a consulting engineer who will review the plans and the proposed installation of Lessee's equipment and antenna facilities upon the Leased Premises within thirty (30) days of the receipt of the plans by the consultant. Such consultant shall provide Lessor with a report of the proposed installation and use as to whether or not any adverse effect to Lessor's or others' property and/or other transmission and reception facilities exists. Lessee agrees that it will reimburse Lessor for the actual fees and costs of said consulting engineer not to exceed the sum of Ten Thousand Dollars (\$10,000). Such charges shall be paid by Lessee thirty (30) days after Lessor bills Lessee.

(b) If the report made pursuant to (a) above reveals an adverse effect upon Lessor, as determined by Lessor in Lessor's sole and absolute discretion, Lessee shall be notified and given sixty (60) days to correct the problem. If the problem cannot be corrected by Lessee, then Lessor may terminate this lease by written notice to Lessee. Upon such termination, the rights, duties, privileges and obligations assumed by the parties hereto (with exception as to the reimbursement by Lessee of the consulting engineer fees and costs which shall remain the obligation of Lessee) shall be null and void.

5. **Security Deposit.** Pursuant to the Initial Contract, Triton deposited the sum of Seven Thousand Dollars (\$7000) with Lessor as a security deposit (the "Security Deposit"). If Lessee expands the Lessee's Facilities as outlined in 1(b) or 6(f), Lessee shall place on deposit

with Lessor an additional Three Thousand Dollars (\$3,000) (the "Additional Security Deposit"), bringing the total deposited pursuant to this Lease to Ten Thousand Dollars (\$10,000). The Security Deposit and the Additional Security Deposit, if applicable, shall be fully refundable to Lessee without interest upon the timely removal of every aspect of Lessee's Facilities, and the complete repair and restoration of the Leased Premises and the payment of any sums owed to or on behalf of Lessor in accordance with the terms of this Lease.

If Lessor removes Lessee's Facilities or any portion thereof in accordance with 10(c), Lessor must give written notice to Lessee that Lessee's Facilities or portion thereof, have been removed and will be deemed abandoned if not claimed by Lessee and the storage fees and other reasonable costs paid within thirty (30) days.

6. **Governmental Approval.** (a) Lessor represents and warrants that upon signature of this contract, but subject to satisfaction of the contingencies in Paragraphs 4 and 5 hereof, the use of Lessee's Facilities in accordance with applicable City ordinances for the purposes contemplated by this Agreement is authorized.

(b) Lessee's right to use the Leased Premises is contingent upon Lessee's ability to obtain and maintain any and all certificates, permits, licenses, zoning, and other approvals (whether discretionary or ministerial), that may be required by any federal, state, or local authority, for Lessee's continued use of the Leased Premises (Governmental Approvals). It shall be the sole and entire responsibility of Lessee to determine what Governmental Approvals are needed for the operation of Lessee's Facilities. Lessor agrees to reasonably cooperate with Lessee (at no cost to Lessor) in its efforts to obtain and maintain such approvals; provided, however, that Lessor's agreement to cooperate shall not in any way limit or otherwise affect the authority or discretion of Lessor's governing body, or any department, division, officer or employee of Lessor, in the conduct of its or his duties with respect to any such Governmental Approval and provided further, that Lessor shall not be required to join, be joined, or otherwise participate as a party in any judicial or administrative action brought by Lessee, or any person or entity claiming under Lessee, in which the denial of, revocation of, or imposition of conditions on any Governmental Approval is in issue. Lessee hereby expressly acknowledges and agrees that neither the execution of this Lease by Lessor nor any act by Lessor or any of Lessor's officers, agents or employees or its governing body in anticipation or in furtherance of the execution of this Lease, shall entitle Lessee to any Governmental Approval, whether discretionary or ministerial, and Lessee shall not be entitled to reimbursement of any costs or expenses of any kind or nature made or incurred in expectation of, or preparation for, the continued use of the Leased Premises.

(c) Lessee warrants that it has performed, or caused to be performed, a radio frequency emissions study (RF Study) showing that Lessee's intended use will not interfere whatsoever with any existing communications facilities of the Lessor, other lessees of the Lessor, any other adjacent property owner or user, or of any other person, and that such RF Study was conducted by an independent, qualified engineer licensed to practice in the Commonwealth of Virginia. Lessee shall, not less than fifteen (15) days prior to the issuance of a building permit for any of Lessee's Facilities, deliver a copy of such RF study to Lessor without cost to the Lessor. Lessor shall, upon request of Lessee, provide such information regarding Lessor's communications facilities as is necessary for Lessee to avoid interference with such facilities. Lessee represents and warrants that it will at all times operate and maintain the Lessee Facilities in accordance with all applicable laws, rules, regulations and ordinances, including but not limited to, FCC regulations pertaining to RF emissions. Lessee shall provide, at its expense,

training for Lessor's personnel with respect to working on said tower and the RF Radiation component. :

(d) If any Governmental Approval is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority so that Lessee will be unable to continue to use the Leased Premises for Lessee's intended purpose, and all administrative and judicial appeals of such action have been exhausted, or the time for filing of such appeals has expired, both Lessor and Lessee shall have the right to terminate this Lease by written notice to the other, and upon such termination, this Lease shall become null and void.

(e) Notwithstanding the provisions of subparagraph (d), in the event of termination by Lessee pursuant to subparagraph (d), Lessee shall be liable to Lessor for Rent for a period of 120 days from the date of such termination, unless such termination is by reason of the denial of a conditional use permit or other approval of a discretionary nature by Lessor's governing body. Lessee shall nevertheless be responsible for removal of any of Lessee's property from the premises pursuant to Paragraph 10 hereof and the restoration of Lessor's premises accordingly. Nothing in this subparagraph shall relieve Lessor of its duty to mitigate its damages in the event of termination by Lessee.

(f) Lessee has right to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services, at no additional cost to Lessee or Lessor as long as (i) the equipment and its use does not interfere whatsoever with any other then existing communications facilities; and (ii) Lessee has paid the Additional Security Deposit.

7. **Use of Premises.** (a) Lessee may use the Leased Premises for the installation, operation, and maintenance of the Antenna Facilities and the Ground Facilities for the transmission, reception and operation of a communications system and uses incidental thereto, and for the storage of related equipment, in accordance with the terms of this Lease. Storage of items shall only be inside the Accessory Building. Lessee may erect and operate such Antenna Facilities and Ground Facilities only with Lessor's consent. In connection therewith, Lessee shall have the right to do all work necessary to prepare and maintain the Leased Premises for Lessee's business operations under this Lease and to install transmission lines connecting the antennas to the transmitters and receivers. In this regard, all welding cutting, and coating work required for the installation of antennae anchors, brackets, supports, etc., shall conform to the applicable AWWA standards and requirements. Any cutting of the tank will require Lessor's advance approval. All protective coatings and surface preparations used for the repair of existing coatings shall be approved by Lessor. The existing coatings shall be tested for the presence of lead and other hazardous substances. The cost of all lead abatement and containment procedures shall be borne by the Lessee as part of the installation cost. Any installation, maintenance, or operations work on the tank that requires placing the tank out of service shall be coordinated in advance and be undertaken only with the prior approval of the Lessor. The costs involved in placing the tank out of service including, but not limited to, the cost of labor, the cost to drain the tank, to disinfect the tank and to refill the tank, shall be borne by the Lessee. Any electrical work to be preformed on the property or tank shall be in accordance with the National Electric Code and all applicable local codes. All wiring outside of the tank shall be installed in rigid steel conduit.

(b) Lessee shall, at its sole cost and expense, construct, operate and maintain the Antenna Facilities and Ground Facilities in accordance with the standards and specifications of City of Staunton, all applicable City ordinances, permits and other requirements, and all applicable FCC rules and regulations. Any modification of Lessee's Facilities shall be in accordance with plans

approved by Lessor, which approval shall not be unreasonably withheld, denied or conditioned. Any damage done to the Owned Premises or any other property of Lessor during modification or operation of Lessee's Facilities shall be repaired at Lessee's expense within thirty (30) days after notification of damage. Title to Lessee's Facilities shall be held by Lessee, and Lessee's Facilities shall be deemed to be the personal property of Lessee and not fixtures. Lessee shall have the right to remove Lessee's Facilities at its sole expense on or before the expiration or earlier termination of this Lease, provided that Lessee shall be required to repair any damage and to restore the Leased Premises to their original condition, ordinary wear and tear, casualty and the acts or omissions of Lessor or third parties excepted. Notwithstanding the foregoing, Lessee understands and agrees that the circumferential ring or "halo" to which the Antenna Facilities are attached is the sole property of Lessor and shall not be removed by Lessee upon the termination of this lease.

(c) All modifications or improvements of the Leased Premises made for Lessee's benefit shall be at the Lessee's expense, and such improvements shall be maintained in a good state of repair by Lessee at Lessee's expense. Lessee shall provide written notice to Lessor not less than seventy-two (72) hours before commencing maintenance or modification of the Antenna Facilities. The Antenna Facilities shall not be painted without Lessor's approval.

(d) Lessee shall provide Lessor with as-built drawings of the equipment and improvements installed on the Leased Premises showing the actual location of all Antenna Facilities and Ground Facilities and for all other improvements installed on Lessor's property by Lessee in connection with this Lease. The drawings shall be accompanied by a complete and detailed inventory of all equipment, personal property, Ground Facilities and Antenna Facilities to be placed on the Leased Premises or other property of Lessor in connection with this Lease. At Lessor's option, such as-built drawings and inventory may be attached to this Lease as Exhibit C.

(e) Lessee shall, at its expense, maintain any equipment on or attached to the Leased Premises in a safe condition, in good repair and in a manner reasonably suitable to Lessor so as not to conflict with the use of the other property of Lessor, Lessor's lessees, or of any other person, subject to the provisions of Paragraph 8 of this Lease. Lessor shall maintain, at its sole expense, access roadways to the Leased Premises in a condition which will allow existing pedestrian and vehicular access under normal weather conditions; provided, however, that Lessee shall be responsible for the repair of any damage or deterioration caused by Lessee's particular use of such roadways.

(f) Lessee, at all times during this Lease, shall have reasonable access during normal working hours to the Leased Premises in order to install, operate, and maintain its Ground Facilities, provided, however, that Lessee shall be required to notify Lessor seventy-two (72) hours in advance of accessing the Antenna Facilities. If it is necessary for Lessee to have access to the Leased Premises at some time other than the normal working hours of Lessor, Lessor may require that Lessee contact Lessor in advance for such access. For purposes of this Paragraph, "normal working hours" are Monday through Friday from 8:00 a.m. to 5:00 p.m., except for holidays.

(g) Lessee has installed utilities to serve the Antenna Facilities and Ground Facilities in the location shown on Exhibit B-1 at Lessee's sole expense. Lessee shall separately meter all utilities associated with its use of the Leased Premises and shall promptly pay all costs for such utility services. Lessor shall, without charge to Lessee, sign such reasonable documents as may

be required by utility providers to provide such service to the Leased Premises, including the grant of permits required by Lessor or a utility provider to provide service as provided herein.

(h) Lessor warrants and agrees that: (i) Lessor owns the Owned Premises and has rights of access thereto. (ii) Lessor has full right to make and perform this Lease; and (iii) Lessee, upon paying rent and performing the covenants herein provided, shall peaceably and quietly have and enjoy the Leased Premises for the purposes herein contemplated. Lessor shall not cause or permit any use of the Owned Premises which materially and unreasonably interferes with or impairs the operation of the Lessee's Facilities or the quality of the communications services being rendered by Lessee from the Leased Premises, nor shall Lessor have unsupervised access to the Leased Premises, except in the event of an emergency or a need to perform an essential function or task requiring immediate access to the Leased Premises.

8. **Equipment Upgrade.** Lessee may update or replace the Lessee's Facilities, or expand Lessee's Facilities in accordance with paragraph 1(b) from time to time with the prior written approval of Lessor, which approval shall not be unreasonably withheld, delayed or conditioned, provided that any change in location of the Lessee Facilities is satisfactory to Lessor. Lessee shall submit to Lessor a detailed proposal for any such replacement facilities and any supplemental materials as may be requested for Lessor's evaluation and approval. Lessor may hire consultants as to such upgrade regarding structure, RF, or maintenance at Lessee's expense. Lessee shall provide training for Lessor's employees with respect to working on the tower in light of the new facilities.

9. **Interference.** (a) Lessee's installation, operation, and maintenance of the Lessee Facilities shall not damage or interfere in any way with Lessor's operations. If Lessee's Facilities cause interference to such operations, Lessee shall take all measures reasonably necessary to correct and eliminate the interference. If the interference cannot be eliminated in a reasonable time, Lessee shall immediately cease operating Lessee's Facilities to the extent necessary to stop the interference. If the interference cannot be eliminated within thirty (30) days, Lessor may terminate this Lease.

(b) Lessee's use and operation of Lessee's Facilities shall not interfere with the use and operation of other communication facilities on the Owned Property which pre-existed Lessee's Facilities. If Lessee's Facilities cause interference, Lessee shall take all measures reasonably necessary to correct and eliminate the interference. If the interference cannot be eliminated in a reasonable time, Lessee shall immediately cease operating Lessee's Facilities to the extent necessary to stop the interference. If the interference cannot be eliminated within thirty (30) days, Lessor may terminate this lease.

(c) Lessor's use and operation of the Owned Property shall not interfere with the use and operation of Lessee's Facilities on the Leased Premises. If Lessor's use and operation of the Owned Property interferes with Lessee's use of the Leased Premises or Lessee's Facilities, Lessee shall provide written notice to Lessor and Lessor shall take all measures reasonably necessary to correct and eliminate such interference. If the interference cannot be eliminated within thirty (30) days, Lessee shall have the right to terminate this Lease.

(d) Lessee understands and agrees that Lessor may permit the installation of other antennae upon said tower attached to the circumferential ring or "halo" either for its own use or by leasing such space to others. Subsequent to the installation of Lessee's Facilities, Lessor shall not permit itself, its lessees or licensees to install new equipment on the Owned Premises or property contiguous thereto owned or controlled by Lessor, if it knows such equipment will cause

interference with Lessee's operations. In the event interference occurs, Lessor agrees to take all action necessary to eliminate such interference within thirty (30) days. If the interference cannot be eliminated within thirty (30) days, Lessee may terminate this Lease.

10. **Termination.** (a) Except as otherwise provided herein, this Lease may be terminated upon not less than sixty (60) days written notice to the other party as follows:

(i) by either party upon a default in the performance of any covenant or term hereof by the other party, which default is not cured within thirty (30) days of receipt of written notice of the default (without, however, limiting any other rights of the parties pursuant to any other provisions hereof);

(ii) subject to the provisions of Paragraph (6)d of this Lease, by Lessee if it is unable to obtain or maintain any Governmental Approval necessary to the operation of Lessee's Facilities or of Lessee's business;

(iii) by Lessee if Lessee's Facilities are destroyed or damaged by an act of God so as to, in the Lessee's judgment, substantially impair Lessee's effective use of Lessee's Facilities, upon thirty (30) days' written notice to Lessor, which notice must be given within thirty (30) days of the date of such destruction or damage. If Lessee so terminates this Lease, Lessee shall be entitled to reimbursement of prepaid Rent covering the period subsequent to the date of destruction or damage;

(iv) by Lessor upon twelve (12) months' notice, if it determines that a potential user which is a public safety agency of the federal or state government or of the City of Staunton cannot obtain another adequate location;

(v) by Lessor, if the Staunton City Council determines that Lessee's use of the Leased Premises is not in compliance with any applicable ordinance, or state or federal law, or any conditions of any Governmental Approval, and Lessee fails to cure such non-compliance within thirty (30) days after such determination is rendered. Such failure shall be a default of Lessee's obligations under the terms of this Lease;

(vi) by Lessee, if Lessee is unable to continue to occupy and utilize the Leased Premises due to an action of the FCC, including, without limitation, a take-back of channels or change or reallocation of the frequencies at which Lessee may operate its communications facilities which renders Lessee's operation of its communications facilities at the Leased Premises obsolete; or

(vii) by Lessee upon sixty (60) days written notice for any reason, so long as Lessee pays Landlord a termination fee equal to one half the then current annual rent. The parties acknowledge that such termination fee shall be required only in the event of termination by Lessee for reasons other than those described here in Subparagraphs 10(a)(i) through 10(a)(vi), Paragraph 9 or Paragraph 14 of this Lease.

(viii) by Lessee, if Lessee is unable to obtain or maintain access to the Leased Premises.

(ix) by Lessor or Lessee pursuant to the provisions of Paragraph 9 or pursuant to the provisions of Paragraph 14

(b) Notice of any termination pursuant to this Paragraph shall be in writing and provided pursuant to the provisions of Paragraph 17. Lessee shall be liable to Lessor for all Rent and other consideration under Paragraph 3 of this Lease for the period of this Lease prior to said termination date except as otherwise provided herein.

(c) Upon termination or expiration of this Lease, Lessee shall have sixty (60) days from the date of termination or expiration to remove Lessee's Facilities and related equipment from the Leased Premises and to restore the Leased Premises to their condition prior to installation of Lessee's Facilities, ordinary wear and tear and damage caused by casualty, Lessor or third parties excepted. If Lessee fails to remove its facilities from the Leased Premises within the time allowed, Lessor may (i) declare the facilities abandoned and title to the facilities shall be transferred to the Lessor, (ii) have such facilities removed and stored for thirty (30) days in which case Lessee shall pay to Lessor the costs incurred for such removal and storage, or (iii) obtain an injunction to require Lessee to remove the facilities for which the Lessee hereby stipulates the Lessor would absent such injunction suffer irreparable harm and have no adequate remedy at law. Lessor shall provide written notice to Lessee prior to taking the actions outlined in this subparagraph (c).

11. **Default:** (a) The following will be deemed a default by Lessee and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after receipt of written notice from Lessor of such failure to pay; or (ii) Lessee's failure to perform any other term or condition under this Agreement within forty-five (45) days after receipt of written notice from Lessor specifying the failure. No such failure, however, will be deemed to exist if Lessee has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Lessee. In the event of any default of this Lease by Lessee not cured by Lessee within the applicable cure period, Lessor may at any time, after notice, cure the default for the account of and at the expense of Lessee. If Lessor is compelled to pay or elects to pay any sum of money or to do any act which will require the payment of any sum of money or is compelled to incur any expense, including reasonable attorney and other professional fees in instituting, prosecuting, or defending any action to enforce the Lessor's rights under this Lease, the sums so paid by Lessor, with all interest, costs and damages shall be deemed to be additional Rent and shall be due from the Lessee to Lessor on the first day of the month following ten (10) day's written notice by Lessor and submission by Lessor to Lessee of an itemized statement, with supporting evidence, of Lessor's costs and expenses.

(b) The following shall be deemed a default by Lessor and a breach of this Agreement: Lessor's failure to perform any term, condition or cure breach of any warranty or covenant under this Agreement within forty-five (45) days after receipt of written notice from Lessee specifying the failure. No such failure, however, will be deemed to exist if Lessor has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Lessor. If Lessor remains in default beyond any applicable cure period, after notice from Lessee, Lessee will have the right to cure Lessor's default and to deduct the reasonable costs of such cure from any monies due to Lessor from Lessee. In the event Lessee deducts such costs from monies due Lessor, Lessee will provide Lessor with an itemized statement and supporting documentation.

12. **Condemnation.** In the event the Leased Premises is taken by eminent domain by the state or federal government, or any instrumentality thereof, or by the City of Staunton, this Lease shall terminate as of the date title to the Leased Premises vests in the condemning

authority. In the event a portion of the Leased Premises is taken by eminent domain, either party shall have the right to terminate this Lease as of said date of title transfer by giving thirty (30) days' written notice to the other party. In the event this Lease is not thereby terminated, Rent shall be reduced or abated in proportion to the actual reduction or abatement of use of the Leased Premises. Lessor and Lessee shall each be entitled to pursue its own separate awards in the event of a taking of the Leased Premises.

13. **Defense and Indemnification.** (a) Lessee agrees to defend, indemnify and hold harmless Lessor and its elected officials, officers, employees, agents, and representatives from and against any and all claims, costs, losses, expenses, demands, actions, or causes of action, including reasonable attorneys' fees and other costs and expenses of litigation, arising from the negligence, willful misconduct, or other fault of Lessee. Lessee shall defend all claims arising out of Lessee's use of the Leased Premises and out of the installation, operation, use, maintenance, repair, removal, or presence of Lessee's Antenna Facilities, equipment and related facilities on the Leased Premises.

(b) Notwithstanding anything to the contrary contained in this Lease, Lessor and Lessee each waives any claims that each may have against the other with respect to consequential, incidental or special damages.

14. **Environmental.** (a) Lessor represents and warrants to the best of its knowledge that the Owned Property is free of hazardous substances as of the date of this Agreement and to the best of Lessor's knowledge, the Owned Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Lessor and Lessee agree that each will be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guideline, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in or on the Owned Property.

(b) Lessee agrees to defend, hold harmless and indemnify Lessor from and to assume all duties, responsibilities and liabilities at the sole cost and expense of Lessee for payment of penalties, sanctions, forfeitures, losses, costs or damages and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) Lessee's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Owned Property and the activities conducted thereon by Lessee, unless the environmental conditions are caused by Lessor.

(c) The indemnifications of this Paragraph 14 Environmental specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Paragraph 14 Environmental will survive the expiration or termination of this Lease.

(d) In the event Lessee becomes aware of any hazardous materials on the Owned Property, or any environmental or industrial hygiene condition or matter relating to the Owned Property that, in Lessee's sole determination, renders the condition of the Premises or Owned

Property unsuitable for Lessee's use, or if Lessee believes that the leasing or continued leasing of the Premises would expose Lessee to undue risks of government action, intervention or third-party liability, Lessee will have the right, in addition to any other rights it may have at law or in equity, to terminate the Lease upon notice to Lessor.

15. **Insurance.** (a) During the Term of this Lease, Lessee shall maintain, or cause to be maintained, in full force and effect and at its sole cost and expense, the following types and limits of insurance. All policies other than those for Worker's Compensation shall be written on an occurrence and not on a claims-made basis. The coverage amounts set forth below may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

i. Worker's compensation insurance meeting applicable statutory requirements and employer's liability insurance with minimum limits of Two Hundred Thousand Dollars (\$200,000.00) for each accident.

ii. Commercial general liability insurance with minimum limits of Two Million Dollars (\$2,000,000.00) as the combined single limit for each occurrence of bodily injury, personal injury and property damage. The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for products and completed operations liability, independent contractor's liability; coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage; and broad form property damage coverage. Lessor shall be named as an additional insured under such policy.

iii. Automobile liability insurance covering all owned, hired and non-owned vehicles in an amount not less than Two Million Dollars (\$2,000,000.00) combined single limits.

(b) Certificates of insurance for each insurance policy required to be obtained by Lessee in compliance with this paragraph shall be filed with Lessor annually during the term of the Lease and shall include a requirement that Lessor shall be notified in writing not less than ten (10) days prior to any modification or cancellation of any insurance. Lessee shall immediately advise Lessor of any claim or litigation that may result in any demand upon or possible liability to Lessor.

(c) All insurance shall be written by insurers licensed to conduct the business of insurance in the Commonwealth of Virginia.

(e) Lessee shall require that each and every one of its contractors and their subcontractors who perform work on the Leased Premises carry, in full force and effect, workers' compensation, comprehensive public liability and automobile liability insurance coverages of the type which Lessee is required to obtain under the terms of this paragraph with like limits of insurance.

16. **Assignment and Sublease.** (a) This Lease, and the rights hereunder, may not be sold, assigned, or transferred at any time by Lessee except upon prior written notice to Lessor and with Lessor's written consent, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, that Lessee may assign its interest to its parent company, any subsidiary or affiliate of it or its parent company or to any successor-in-interest or entity

acquiring of its assets, or to entity controlling, controlled by or under common control with Lessee, without Lessor's consent. Lessee shall be relieved of all future performance, liabilities and obligations under this Lease upon such assignment. Subject to the other provisions of this Lease, Lessee shall have the right to sublet all or a portion of the Leased Premises without Lessor's consent, but shall remain liable to Lessor for the payment of Rent and all other payments from and other obligations of Lessee required or contemplated by this Lease unless otherwise consented to, in writing, by Lessor. Notwithstanding anything to the contrary contained in this Lease, Lessee may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Lease to any financing entity, or agent on behalf of any financing entity to whom Lessee (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

(b) This Lease shall run with the property and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives, heirs and assigns.

(c) Lessee understands and agrees that Lessor may rent tower space upon the water tower to another person, firm, or corporation as long as the equipment placed on the tower by such other entity does not interfere with the operation of Lessee hereunder.

17. **Notices.** All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, addressed as follows or if sent by facsimile to the facsimile number set forth below, with a hard copy contemporaneously mailed as previously specified:

If to Lessor to: City Manager
 PO Box 58
 Staunton, VA 24402-0058

With a copy to: City Attorney
 PO Box 58
 Staunton, VA 24402-0058

If to Lessee to: New Cingular Wireless PCS, LLC
 c/o Cingular Wireless LLC
 Attn: Network Real Estate Administration
 Re: Cell Site # SW-R-801; City Water Tank
 6100 Atlantic Boulevard
 Norcross, GA 30071

With a copy to: Cingular Wireless LLC
 Attn: Legal Department
 Re: Cell Site # SW-R-801; City Water Tank
 15 E Midland Avenue
 Paramus, NJ 07652

Lessor and Lessee may from time to time designate any other address for this purpose by written notice to the other party.

18. **Miscellaneous Provisions.** (a) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease shall be effective only if made in writing and executed and acknowledged by both parties.

(b) Each party agrees to cooperate with the other in executing or having executed any documents (including a Memorandum of Lease in a form acceptable to both parties, Non-Disturbance Agreements, easement agreements, or other documents) necessary to protect its rights or use of the Leased Premises. Either party may record a Memorandum of Lease or easement agreement, but neither party may record this Lease.

(c) This Lease shall be construed in accordance with the laws of the Commonwealth of Virginia. Any court action relating to this Lease may be maintained only in the Circuit Court of the City of Staunton.

(d) If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The parties intend that the provisions of this Lease be enforced to the fullest extent permitted by applicable law. Accordingly, the parties shall agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable.

(e) The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their representative capacities as indicated.

(f) The submission of this document for examination does not constitute an offer to lease or a reservation of or option for the Leased Premises and shall become effective only upon execution by both parties.

(g) This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

(h) Intentionally deleted.

(i) This Lease shall be governed as to all matters, whether of validity, interpretation, obligations, performance or otherwise, exclusively by the laws of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Lease shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia.

(j) During the performance of this Lease, the Lessee agrees that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, veteran status or national origin, except where religion, sex, handicap, or national origin is a bona fide occupational qualification or consideration reasonably necessary to the normal operation of the Lessee. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Lessee, in all solicitations or advertisements for employees placed

by or on behalf of the Lessee, will state that such Lessee is an equal opportunity employer. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements herein.

(k) Lessee hereby certifies that it did not, directly or indirectly, enter into any combination or arrangement with any person, firm or corporation or enter into any agreement, participate in any collusion, or otherwise take any action in restraint of free, competitive bidding for this Lease in violation of any of the laws of the United States or the Commonwealth of Virginia.

(l) Lessee represents and warrants that, as of the date of its execution of this Lease, it is the holder of a valid license issued by the Federal Communications Commission to construct and operate radio transmitting facilities within a territory including the City of Staunton pursuant to Section 309 (h) of the Communications Act of 1934 (47 U.S.C. 309 (h)). Lessee hereby agrees that, if for any reason such license is revoked or otherwise terminated, it will immediately so notify Lessor, and Lessee shall have the right to terminate this Lease pursuant to Paragraph 10(a)(vi) of this Lease.

19. **Tests and Constructions.** Lessee shall have the right following the full execution of this Lease, upon the giving of forty-eight (48) hours' advance notice to Lessor, to enter upon the Owned Premises for the purpose of making appropriate engineering and boundary surveys, inspections, soil test borings or other reasonably necessary tests. In the event of any inconsistency between this Lease and any survey performed, Lessor shall make such amendments to this Lease and adjustments in the location of Leased Premises as shall be reasonably for Lessee's use and satisfactory to Lessee. If the title search or the survey discloses any matters which Lessee deems unsuitable or which interfere with Lessee's use and enjoyment of the Leased Premises, Lessor shall cure such defects within sixty (60) days. If Lessor does not or cannot cure such defect within such sixty (60) days, Lessee shall have the right, without obligation, to terminate this Lease and render it null and void from the date of termination.

20. **RF Compliance.** (a) Subsequent to the installation of Lessee's Facilities, Lessor shall not knowingly permit itself, its lessees or licensees to install new equipment on the Owned Premises or property contiguous thereto owned or controlled by Lessor, if such equipment will cause the Owned Premises to exceed the FCC radiated power density maximum permissible exposure (AMPE) limits for workers and the general public. Such excess radiated power densities shall be deemed a material breach by Lessor. In the event excess radiated power densities occur, Lessor agrees to take or to cause any subsequent lessee or licensee whose use of the Owned Premises results in the FCC specified MPE limits being exceeded to promptly take all mitigation action necessary to eliminate such excess radiated power densities within thirty (30) days. In the event Lessor fails to comply with this paragraph, Lessee may terminate this Lease and/or pursue any other remedies available under this Lease, at law, and/or at equity, including injunctive relief.

21. **Marking and Lighting Requirements.** (a) Lessee shall be responsible for compliance with all marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC in the event those requirements are the result of the presence of Lessee's Facilities on the Leased Premises. Further, Lessee shall pay for such reasonable costs and expenses (including for any lighting automated alarm system), provided that the requirement for compliance results from the presence of Lessee's Facilities on the Leased Premises. Should Lessor be cited because the Owned Premises is not in compliance due to the presence of Lessee's Facilities on the Leased Premises, and should Lessee fail to cure the conditions of

noncompliance, Lessor may either terminate this Lease or proceed to cure the conditions of noncompliance at Lessee's expense. All sums so paid by Lessor, with all interest, costs, and damages shall be deemed to be additional Rent and shall be due from the Lessee to Lessor on the first day of the month following ten (10) day's written notice by Lessor and submission by Lessor to Lessee of an itemized statement, with supporting evidence, of Lessor's costs and expenses.

(b) If lighting requirements apply and a lighting automatic alarm system has been installed by Lessor, Lessor shall allow Lessee to bridge in to the system to permit a parallel alarm or to install a second alarm if a bridge would interfere with Lessor's alarm. Lessee shall be responsible for the cost and expense of maintaining the bridge or parallel alarm. Notwithstanding anything in this Paragraph 21(b), the responsibility for compliance with FAA and FCC requirements shall remain with Lessor as provided in Paragraph 21(a) above.

22. **Waiver of Lessor's Lien.** (a) Lessor waives any lien rights it may have concerning Lessee's Facilities which are deemed Lessee's personal property and not fixtures, and Lessee has the right to remove the same at any time without Lessor's consent.

(b) Intentionally deleted.

23. **Brokers.** Lessor and Lessee represent to each other that they have not negotiated with any real estate broker in connection with this Lease. Lessor and Lessee agree that, should any claim be made against the other for a real estate broker's commission, finder's fee or the like by reason of the acts of such party, the party upon whose acts such claim is based shall indemnify and hold the other party free and harmless from all losses, damages, claims and expenses in connection therewith.

24. **Taxes.** Lessee shall be responsible for paying all personal property taxes assessed upon Lessee's Facilities and for paying taxes on its leasehold interest pursuant to Virginia Code Section 58.1-3203, or any successor statute.

25. **Appropriations.** The obligations of the Lessor are contingent upon and subject to sufficient funds appropriated for purposes of this Agreement.

IN WITNESS WHEREOF, the parties hereto have respectively executed this Lease to be effective as of the date hereinabove stated.

Lessor:
CITY OF STAUNTON

by: 
City Manager

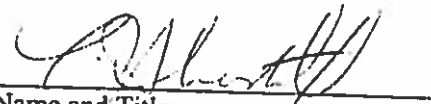
ATTEST:


City Clerk

APPROVED AS TO LEGAL:
FORM.


Department of Law

Lessee:
NEW CINGULAR WIRELESS PCS, LLC

by: 
Name and Title:
Frank J. Shortall
Manager, Real Estate
and Construction

Acknowledgements appear on the following page.

COMMONWEALTH OF VIRGINIA

CITY OF STAUNTON

I, Deborah L. Sutton, a Notary Public of the City and State aforesaid, do hereby certify that C. Robert Stripling of the City of Staunton whose name as such is signed to the foregoing Lease Agreement, has acknowledged the same before me in my City and State aforesaid.

GIVEN under my hand this 27th day of February, 2006.

Deborah L. Sutton
Notary Public

My Commission Expires: 2-28-2010

COMMONWEALTH OF VIRGINIA

COUNTY OF HENRICO

I, Carol A. Murphy, a Notary Public of the County and State aforesaid, certify that Frank J. Shortall personally came before me this day and acknowledged that he is Mgr, REGISTRATION for New Cingular Wireless PCS, LLC, and that by authority duly given and as an act of the Company, he signed the foregoing instrument. Witness my hand and official stamp or seal, this 23rd day of January, 2006.



Carol A. Murphy
Notary Public

My Commission Expires: Carol A. Murphy
My Commission Expires
December 31, 2009

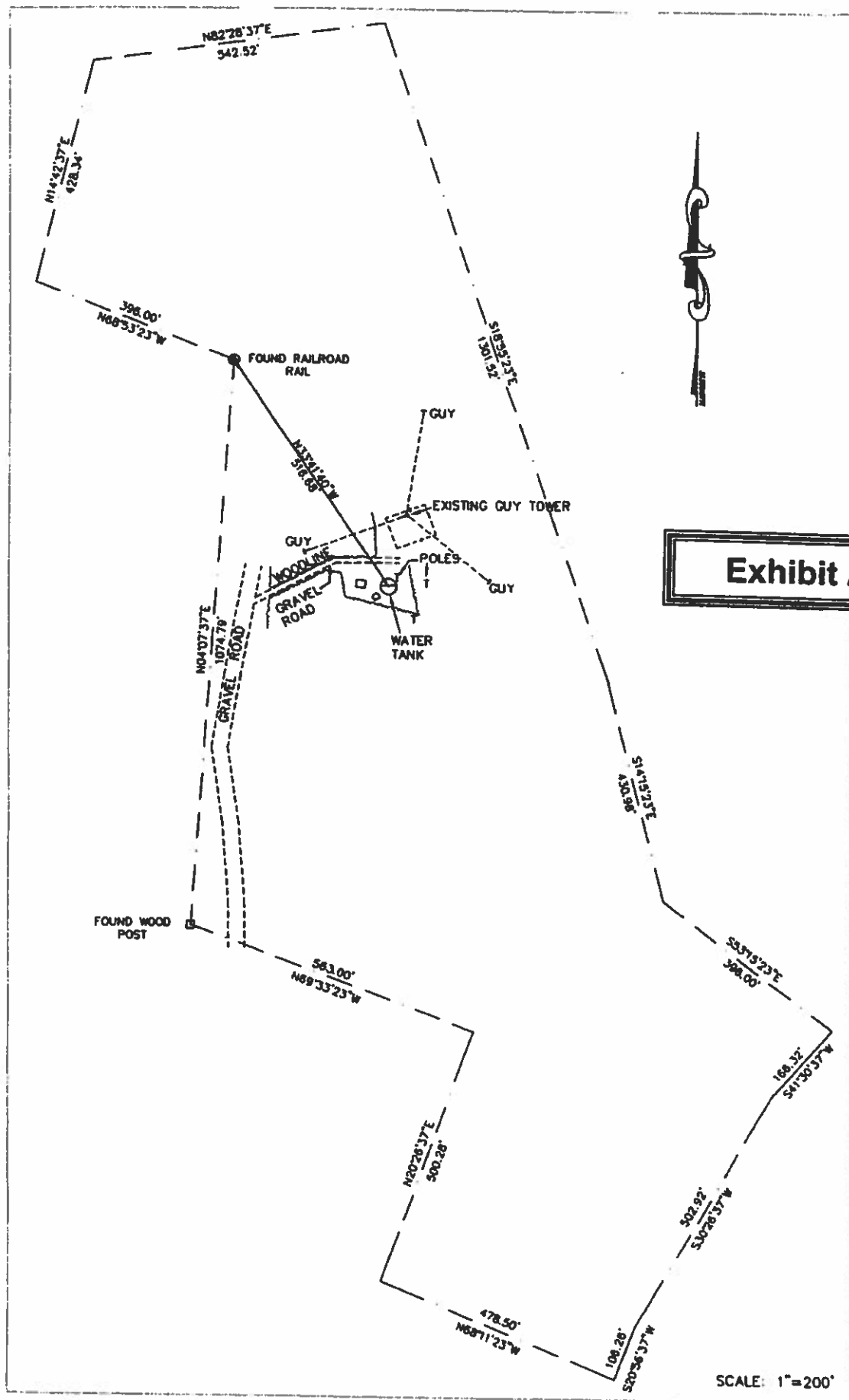
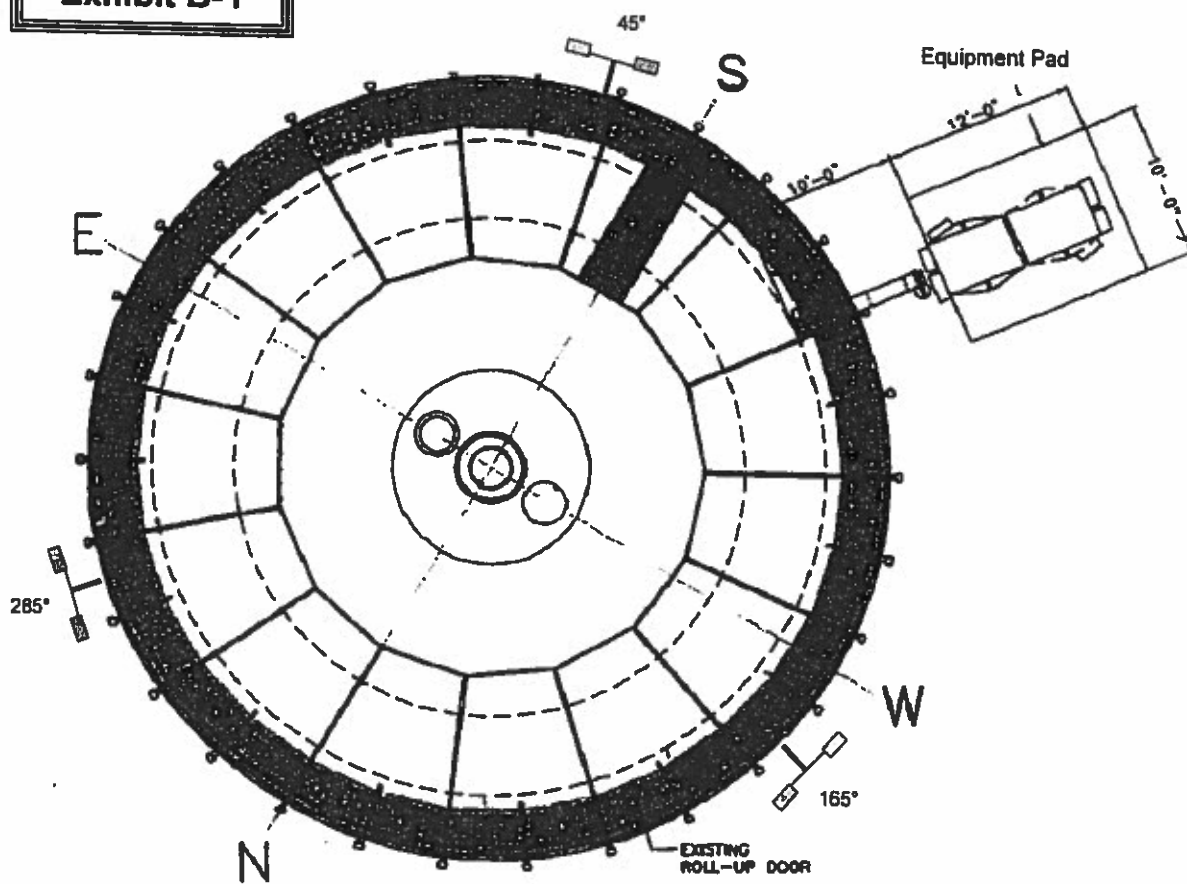


Exhibit A

Exhibit B-1



CURRENT CONFIGURATION:

Six Panel Antennas (Three Sectors with Two Antennas Per Sector)

Note: Antennas are not drawn to scale

Exhibit B-2

Maximum Total Loading:

12 panel antennas

12 feed lines

6 amplifiers

Maximum Ground Space:

12' x 20'

Cell Site No: SW-R-801
FA No: 10067599
Site Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT ("Amendment") dated as of the later date below is by and between the City of Staunton, a municipal corporation of the Commonwealth of Virginia, having a mailing address at PO Box 58, Staunton, VA 24402-0058 (hereinafter referred to as "Lessor") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address at 12555 Cingular Way, Alpharetta, GA 30004 (hereinafter referred to as "Lessee").

WHEREAS, Lessor and Lessee entered into a Lease Agreement dated December 14, 2005, whereby Lessor leased to Lessee certain Leased Premises, therein described, that are a portion of the Property located at 1876 Shutterlee Mill Road, Staunton, VA 24401 ("Agreement"); and

WHEREAS, Lessor and Lessee desire to extend the term of the Agreement; and

WHEREAS, Lessor and Lessee, in their mutual interest, further wish to amend the Agreement as set forth below.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. **Term.** The Term of the Agreement shall be amended to provide that the Agreement has a new initial term of 60 months ("New Initial Term"), commencing retroactively on December 14, 2010 ("New Commencement Date").
2. **Rent.** Sections 3(a) and 3(b) of the Agreement are hereby deleted in their entirety and replaced with the following: "3(a-b) During the New Initial Term, Lessee shall pay to Lessor as rent for the Leased Premises the sum of \$3,065.97 per month, due on the first day of the month, increasing annually effective as of each anniversary of the New Commencement Date by an amount equal to 4 percent of the previous month's rent. In partial months rent shall be prorated." The parties acknowledge and agree that Lessee has fully paid all rent due and owing to Lessor as of the date of this Amendment, including but not limited to prorated rent from the New Commencement Date through December 31, 2010.
3. **Termination.** This lease may be terminated in accordance with the provisions of the Agreement.
4. **Acknowledgement.** Lessor and Lessee acknowledge that: 1) this Amendment is entered into with free will and volition; and 2) they have read and understand this Amendment and the underlying Agreement and, prior to execution of the Amendment, were free to consult with counsel of their choosing regarding the decision to enter into this Amendment and to have counsel review the terms and conditions of the Amendment.

Cell Site No: SW-R-801
FA No: 10067599
Site Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

5. **Notices.** Section 17 of the Agreement is hereby deleted in its entirety and replaced with the following: **NOTICES.** All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to Lessee:

New Cingular Wireless PCS, LLC
c/o Network Real Estate Administration
Cell Site: SW-R-801 / City Water Tank (VA)
Fixed Asset No. 10067599
12555 Cingular Way, Suite 1300
Alpharetta, GA 30004

With a required copy of the notice sent to AT&T Legal at:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Cell Site: SW-R-801 / City Water Tank (VA)
Fixed Asset No. 10067599
340 Mt. Kemble Avenue
Morristown, NJ 07960-6656

The copy sent to AT&T Legal Department is an administrative step which alone does not constitute legal notice.

If to Lessor:

City Manager
City of Staunton
PO Box 58
116 W. Beverly Street
Staunton, VA 24402-0058/24401

With a required copy of the notice also sent to:

City Attorney
City of Staunton
PO Box 58
116 W. Beverly Street
Staunton, VA 24402-0058/24401

And to:

Director of Public Works

Cell Site No: SW-R-801
FA No: 10067599
Site Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

City of Staunton
PO Box 58
1876 Shutterlee Mill Road
Staunton, VA 24402-0058/24401

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

6. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Agreement and this Amendment, the terms of this Amendment shall control. Except as expressly set forth in this Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this Amendment.

7. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the last date written below.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Cell Site No: SW-R-801
FA No: 10067599
Site Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

LESSOR

City of Staunton, a municipal corporation of the
Commonwealth of Virginia

By: [Signature]
Print Name: Stephen F. Owen
Its: City Manager
Date: April 29, 2011

LESSOR ACKNOWLEDGMENT

COMMONWEALTH OF VIRGINIA)
CITY OF STAUNTON) SS:

The foregoing instrument was acknowledged before me this April 29,
2011, by Steve Owens (name of person acknowledged).



[Signature]
(Signature of Person Taking Acknowledgement)
Notary Public Christi McAuster
(Title or Rank) (Printed Name)
7113341 10/31/2011
(Registration Number) (Commission Expiration Date)

Cell Site No: SW-R-801
FA No: 10067599
Site Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

LESSEE

New Cingular Wireless PCS, LLC
By: AT&T Mobility Corporation
Its: Manager

By: [Signature]
Print Name: David C. Tuck
Manager,
Its: Real Estate and Construction
Date: 4/14/11

LESSEE ACKNOWLEDGMENT

COMMONWEALTH OF VIRGINIA)
COUNTY OF HENRICO) SS:

The foregoing instrument was acknowledged before me this April 14,
2011, by David C. Tuck
Manager,
Real Estate and Construction (name of officer or agent, title
of officer or agent) of New Cingular Wireless PCS, LLC, a Delaware limited liability company,
on behalf of the limited liability company.



[Signature]
(Signature of Person Taking Acknowledgement)
Notary Public Jackie L Holloway-Jones
(Title or Rank) (Printed Name)
013114
(Registration Number) (Commission Expiration Date)

Cell Site No.: SW801
Cell Site Name: City Water Tank Staunton (VA)
Fixed Asset No.: 10067599
Market: VA/WVA
Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

THIRD AMENDMENT TO LEASE AGREEMENT

THIS THIRD AMENDMENT TO LEASE AGREEMENT (“Third Amendment”) dated as of the later date below (“Effective Date”) is by and between City of Staunton, a municipal corporation of the Commonwealth of Virginia, having a mailing address of 116 West Beverley Street, P.O. Box 58, Staunton, VA 24402 (hereinafter referred to as “Lessor”) and New Cingular Wireless PCS, LLC, a Delaware limited liability company, authorized to do business and in good standing in the Commonwealth of Virginia (SCC# T0165094) having a mailing address at 1025 Lenox Park Blvd NE, 3rd Floor, Atlanta, GA 30319 (hereinafter referred to as “Lessee”).

WHEREAS, Lessor and Lessee entered into a Lease Agreement dated December 14, 2005, as amended by First Amendment to Lease Agreement dated April 29, 2011, and as amended by Second Amendment to Lease Agreement dated January 29, 2016, (hereinafter, collectively, the "Agreement"), whereby Lessor leased to Lessee certain Leased Premises, that are a portion of the Owned Premises identified in the records of Lessee as located at 1876 Shutterlee Mill Road, Staunton, VA 24401, and having a current address in the City of Staunton's addressing system of 1911 Craigmont Road; and

WHEREAS, the Term of the Agreement will expire on December 13, 2020, and the parties mutually desire to renew the Agreement, memorialize such renewal period and modify the Agreement in certain other respects, all on the terms and conditions contained herein; and

WHEREAS, Lessor and Lessee desire to extend the Term of the Agreement; and

WHEREAS, Lessor and Lessee desire to modify, as set forth herein, the Rent (as defined below) payable under the Agreement; and

WHEREAS, Lessor and Lessee desire to amend the Agreement to clarify the scope of Lessee's permitted use of the Leased Premises; and

WHEREAS, Lessor and Lessee, in their mutual interest, further wish to amend the Agreement as set forth below.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

- 1. Extension of Term.** The Term of the Agreement shall be extended to provide that the Agreement shall have one (1) additional term of five (5) years (“Term”) commencing on December 14, 2020 and expiring on December 13, 2025.

Cell Site No.: SW801

Cell Site Name: City Water Tank Staunton (VA)

Fixed Asset No.: 10067599

Market: VA/WVA

Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

2. **Acknowledgement.** Lessor acknowledges that: 1) this Third Amendment is entered into of the Lessor's free will and volition; 2) Lessor has read and understands this Third Amendment and the underlying Agreement and, prior to execution of the Third Amendment, was free to consult with counsel of its choosing regarding Lessor's decision to enter into this Third Amendment and to have counsel review the terms and conditions of the Amendment;
3. **Modification of Rent.** Commencing on December 14, 2020, the current Rent payable under the Agreement shall be Forty Three Thousand Nine Hundred One and 88/100 (\$43,901.88) per year, and shall continue during the Term, subject to adjustment as provided herein.
4. **Future Rent Increase Annual Payments.** The Agreement is amended to provide that commencing on December 14, 2021, Rent shall increase by one and one half percent (1.5%) over the Rent paid during the previous year and every year thereafter on December 14th.
5. **Notices.** Section 17 of the Agreement is hereby deleted in its entirety and replaced with the following: "NOTICES. All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows.

As to Lessee:

New Cingular Wireless PCS, LLC,

Attn: AT&T Network Real Estate Administration,

Cell Site #: SW801; Cell Site Name: City Water Tank (VA)

Fixed Asset No.: 10067599

1025 Lenox Park Blvd NE, 3rd Floor

Atlanta, GA 30319

With a required copy to:

New Cingular Wireless PCS, LLC

Attn.: AT&T Legal Department,

Re: Cell Site #: SW801; Cell Site Name: City Water Tank (VA)

Fixed Asset No.: 10067599

208 S. Akard Street

Dallas, TX 75202-4206

A copy sent to the AT&T Legal Department is an administrative step which alone does not constitute legal notice.

As to Landlord:

City of Staunton

Attn: City Manager, City Attorney, Finance Director and Public Works Director

Cell Site No.: SW801

Cell Site Name: City Water Tank Staunton (VA)

Fixed Asset No.: 10067599

Market: VA/WVA

Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

116 West Beverley Street

P.O. Box 58 Staunton, VA 24402

Re: New Cingular Wireless PCS, LLC Lease Agreement

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.”

6. Permitted Use. In addition to the Lessee’s rights set forth in the Agreement, and notwithstanding anything in the Agreement to the contrary, Lessee, its personnel, invitees, contractors, agents, subtenant/licensors, or its authorized sublessee, or assigns, may use the Leased Premises, at no additional cost or expense, for the transmission and reception of any and all communications signals and to modify, supplement, replace, upgrade, expand, including but not limited to the number and type(s) of antennas, or refurbish the equipment and/or improvements thereon, or relocate the same within the Leased Premises at any time during the Term of this Agreement for any reason, or in order to be in compliance with any current or future federal, state or local mandated application, including but not limited to emergency 911 communication services or for any other reason, without the Lessor’s consent or approval. Lessor shall reasonably cooperate in obtaining governmental and other use permits or approvals necessary or desirable for the foregoing permitted use. If Lessor does not comply with the terms of this section, in addition to any other rights it may have at law or equity, Lessee may terminate this Agreement and shall have no further liability to Lessor.

7. Hearing Notice Expense. Lessee, upon receipt of documentation of the Lessor’s payment of an invoice for such, shall reimburse Lessor for the expense of newspaper publication of the public hearing notice related to the Staunton City Council’s consideration of this Third Amendment.

8. Upon the Effective Date, Section 7(c) of the Agreement is hereby deleted in its entirety and replaced with the following:

“(c) All modifications or improvements of the Leased Premises made for Lessee’s benefit shall be at the Lessee’s expense, and such improvements shall be maintained in a good state of repair by Lessee at Lessee’s expense. The Antenna Facilities shall not be painted without Lessor’s approval.”

9. 24/7 Access. Upon the Effective Date, Section 7(f) of the Agreement is hereby deleted in its entirety and replaced with the following:

“(f) At all times throughout the Term of this Agreement, and at no additional charge to Lessee, the Lessee, its employees, agents, and subcontractors, will have access to and over the Owned Premises to the Leased Premises, for the installation, maintenance and operation of the Lessee’s Facilities and any utilities serving the Leased Premises (“Access”), and Lessor hereby grants to Lessee a license for such Access. Lessor agrees to allow Lessee Access to the Owned

Cell Site No.: SW801
Cell Site Name: City Water Tank Staunton (VA)
Fixed Asset No.: 10067599
Market: VA/WVA
Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

Premises and Leased Premises during ordinary business hours (8:00 am - 5:00 pm Monday through Friday) for regular maintenance and repairs, and twenty-four (24) hours a day, seven (7) days a week for unscheduled repairs and other emergency purposes. In the event of an emergency, an emergency being defined as an event where Lessee's equipment is out of service, or there is an immediate risk that Lessee's Equipment will suffer a partial or full outage that will result in a disruption to Lessee's customers, Lessee will contact Lessor prior to arriving to the Owned Premises, to which Access will not be denied."

10. Sublease Rights. Lessee may sublease all or any portion of the Leased Property to any person or entity licensed by the FCC to operate wireless communications services (hereinafter, a "Sublessee") upon such terms and conditions as Lessee and Sublessee shall agree (each such agreement a "Sublease"), upon notice to Lessor. From and after the Effective Date hereof, provided a Sublease is subject to the terms and conditions of the Agreement as amended hereby and in consideration of the amended terms herein, Lessor's consent to a Sublessee or Sublease will not be required. Notwithstanding any terms in the Agreement to the contrary, no revenue sharing from Sublessees shall be due to Lessor nor shall Lessor be responsible to review plans from Lessee or its Sublessees.

11. Other Terms and Conditions Remain. In the event of any inconsistencies between the Agreement and this Third Amendment, the terms of this Third Amendment shall control. Except as expressly set forth in this Third Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this Third Amendment.

[NO MORE TEXT ON THIS PAGE - SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this Third Amendment on the date and year below.

LESSOR:
City of Staunton, a municipal corporation of the
Commonwealth of Virginia

LESSEE:
New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: _____

By: _____

Cell Site No.: SW801
Cell Site Name: City Water Tank Staunton (VA)
Fixed Asset No.: 10067599
Market: VA/WVA
Address: 1876 Shutterlee Mill Road, Staunton, VA 24401

Print Name: _____

Print Name: Carol A. Murphy

Title: _____

Title: Sr. Manager, RE & Construction

Date: _____

Date: _____

LESSOR ACKNOWLEDGEMENT

REPRESENTATIVE CAPACITY

STATE OF _____)
) SS.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of _____, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____.

Notary Seal

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)
Notary Public in and for the State of _____

My appointment expires: _____

Ordinance No. 2021 - __

AN ORDINANCE AUTHORIZING THIRD EXTENSION OF 5-YEAR LEASE AGREEMENT WITH NEW CINGULAR WIRELESS PCS, LLC, AS LESSEE FOR WIRELESS COMMUNICATIONS FACILITIES

A. Lessor and Lessee (or its respective predecessor-in-interest) entered into a Lease Agreement dated December 14, 2005, as amended by First Amendment to Lease Agreement dated April 29, 2011, and as further amended by Second Amendment to Lease Agreement dated January 29, 2016, (hereinafter, collectively, the “**Agreement**”, whereby the City of Staunton as Lessor leased to New Cingular Wireless, LLC as Lessee certain leased premises (“Leased Premises”), therein described, that are a portion of the Owned Premises, as defined in the Agreement, located at 1911 Craigmont Drive, Staunton, Virginia 24401 (Parcel # 10121); and

B. The term of the Agreement expired on December 13, 2020, and the parties mutually desire to renew the Agreement retroactively to and including December 14, 2020, and memorialize such renewal period and modify the Agreement in certain other respects, all on the terms and conditions reflected in a proposed Third Amendment to Lease Agreement (“Third Amendment”); and

C. Staunton City Council held a public hearing regarding this proposed Lease on January 28, 2021;

D. This matter involving the proposed Third Amendment has been properly advertised, heard and considered; and

E. These recitals are deemed an integral part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia, that the City Manager is authorized on behalf of the City of Staunton, Virginia, to execute a Third Amendment to Lease Agreement, as proposed, with New Cingular Wireless PCS, LLC, effective retroactively to and including December 14, 2020, and to make minor modifications to such instrument prior to execution, upon advice of the City Attorney, and to take such further reasonable actions related to execution and implementation.

Introduced: January 28, 2021

Adopted:

Effective Date: As provided

Andrea W. Oakes, Mayor

47 ATTEST: _____
48 Suzanne F. Simmons
49 Clerk of Council

DRAFT

**CITY OF STAUNTON
NOTICE OF INTENT AND PUBLIC HEARING
REGARDING PROPOSED FIVE-YEAR LEASE EXTENSION
BY THE CITY OF STAUNTON
TO NEW CINGULAR WIRELESS PCS, LLC
OF MOBILE COMMUNICATIONS FACILITIES**

A public hearing will be held during the regular meeting of Staunton City Council at **7:30 p.m. on Thursday, January 28, 2021**, for the purpose of considering authorization to the City Manager to enter into a third five-year extension of a lease agreement with New Cingular Wireless PCS, LLC, in order to continue to lease space for wireless communications facilities located at the Public Works Department, 1911 Craigmont Drive, Staunton, Virginia (Parcel # 10121).

The hearing will be held in Council Chambers, first floor of City Hall, 116 West Beverley Street, Staunton, Virginia.

The proposed lease is authorized by, among other considerations, Virginia Code Section 15.2-1800.

A copy of the full text of the proposed lease is available by (i) emailing the Clerk of Council at simmonssf@ci.staunton.va.us, (ii) calling the Clerk of Council at 540.332.3180 to request a copy, or (iii) viewing the meeting agenda packet available online at <https://www.ci.staunton.va.us/agendas-minutes>.

All persons wishing to be heard at the public hearing are invited to participate using the following procedure:

- Dial toll free number: (844) 854-2222
- When prompted, enter the access code for the meeting: 619358#
- You will hear “Q&A session has started. To ask your question, please press *6”
- Press *6
- You will hear, “If you’d like to ask a question, please press 1 to add yourself to the queue”
- Press 1
- While you are in the queue, you will hear the audio feed of the meeting

- Wait until you are prompted by the moderator, then share your comments with Council
- Participants are reminded that though the prerecorded prompts refer to questions, a public hearing is a time for Council simply to listen to your comments

In addition, through 5:00 p.m. on Friday, January 29, 2021, the public may also communicate comments to City Council by (i) emailing the Clerk of Council at publiccomment@ci.staunton.va.us, or (ii) calling the Clerk of Council at 540.332.3810. Voice mail messages are acceptable. A comment sent by email or voice mail must include full name and street address for the comment to be included in the public record.

Suzanne F. Simmons
Clerk of Council

Please publish on Wednesday, January 13, 2021 and Wednesday, January 20, 2021 as a boxed ad in the “Public Notice” section of the paper.

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 28, 2021	Staff Members: Billy Vaughn Amanda DiMeo
Item #	C	
Ordinance #		
Department:	Community Development	
Council Vision:	Built Environment Responsive, Efficient Government Inclusiveness	
Subject:	Substantial Amendment to the FY2019 Annual Action Plan to Allocate Additional U.S. Department of Housing and Urban Development CDBG-CV Funds Awarded Under the FY2020 CARES Act and Amend the FY2019 Annual Plan to Reallocate CDBG Funds	

Background: On February 26, 2019, the City received official confirmation from the U.S. Department of Housing and Urban Development (HUD) that it has been designated as a new entitlement community starting with the federal fiscal year 2019. Under this program designation, the City receives annual allocations of \$354,433 from HUD.

In response to the current pandemic, the CARES Act made available supplemental funding through the Community Development Block Grant (CDBG) program for services and activities that will prevent, prepare for, and respond to coronavirus. HUD has allocated an additional \$207,590 in CDBG-CV funds to the City. On June 11, 2020, City Council approved and submitted to HUD a Substantial Amendment to the City's FY2019 Annual Action Plan. With the award of a second round of CDBG-CV funds totaling \$125,136, the City must submit a further Substantial Amendment to receive the funds. The City is also proposing an amendment to its FY2019 entitlement allocation budget.

On January 21, 2021, a virtual public hearing was held. The purpose of the hearing was to present and receive comments on the City's intent to allocate funds for activities for income-eligible households that have been directly impacted by COVID-19, including:

- Subsistence payments (rental, utility and mortgage assistance)
- Shelter operations
- Food banks
- Health and legal services

The following are objectives of the CARES Act while addressing issues created by the pandemic:

- Providing emergency payments for rental, mortgage, and utility assistance to low-to-moderate income households.
- Providing funding for additional emergency shelter staffing due to the increased shelter space needs resulting from social distancing.
- Providing food assistance to low-to-moderate income households.
- Increasing outreach and education to underserved populations to provide prevention messaging in socially vulnerable areas, as identified by Centers for Disease Control social vulnerability index maps.

Staff engaged with Mullin & Lonergan Associates, Inc., the consultant under contract with the City to provide program administration and technical support services, to vet the proposals to ensure compliance with HUD CDBG COVID-19 guidelines. The draft plan provides a listing of the agencies that met the guidelines for receiving additional funding.

Also during the public hearing, information was presented on the proposal to reduce funding for the Rockway Street Waterline project and redirect the funds to the previously approved Valley Supportive Housing project.

As required by HUD guidelines, the Substantial Amendment was properly advertised and made available to the public on January 19, 2021, for a period of seven days, and a virtual public hearing was conducted on January 21, 2021, at 1:00 p.m. An official copy of the Substantial Amendment to the FY2019 Annual Action Plan is attached. A representative from Mullin & Lonergan Associates, Inc. will provide a brief overview of the draft amendment.

If City Council approves the proposed amendment to the FY2019 Annual Action Plan, authorization must be given to the City Manager to execute sub-recipient agreements with agencies recommended to receive HUD CDBG-CV funds.

Attachments:

- Attachment 1— Public Hearing Notice of Substantial Amendment to the FY2019 Annual Action Plan for CDBG-CV Funds from the CARES Act and FY 2019 Annual Action Plan
- Attachment 2— Substantial Amendment to the FY2019 Annual Action Plan for CARES Act CDBG-CV Funds and Reallocation of FY2019 CDBG Project Funds

City Manager's Recommendation: Recommend that City Council approve the Substantial Amendment to the FY2019 Annual Action Plan for CARES Act CDBG-CV Funds, and the reallocation of FY2019 CDBG project funds.

Suggested Motion: I move that City Council approve the Substantial Amendment to the FY2019 Annual Action Plan for CARES Act CDBG-CV Funds in response to the COVID-19 emergency, and the reallocation of FY2019 CDBG project funds, and authorize the City Manager to execute appropriate forms including sub-recipient agreements with agencies recommended to receive HUD CDBG-CV funds.

City Manager: Steven L. Rosenberg

NOTICE OF PUBLIC NEEDS HEARING

CITY OF STAUNTON, VIRGINIA NOTICE OF SUBSTANTIAL AMENDMENT TO THE 2019 ANNUAL ACTION PLAN FOR CDBG-CV FUNDS FROM THE CARES ACT AND FY 2019 ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FUNDS AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Staunton, Virginia is proposing a Substantial Amendment (SA) to its 2019 Annual Action Plan to allocate CDBG-CV funds awarded under the FY20 CARES Act supplemental funding legislation. The City expects to receive an additional \$125,136 in CDBG-CV funds. The City is also proposing an amendment to its FY2019 Entitlement Allocation budget.

The City will hold a virtual public hearing on January 21, 2021 at 1:00 p.m. To participate, please dial the toll-free number **(844) 854-2222**, and when prompted, enter the access code **619358#**. Anyone requiring special accommodations or who requires a presentation in a language other than English, please email Suzanne F. Simmons, simmonssf@ci.staunton.va.us no later than January 15, 2021.

The purpose of the public hearing is to discuss the City's intent to allocate funds for activities for income-eligible households that have been directly impacted by Covid-19, including:

- Subsistence Payments (rental, utility and mortgage assistance)
- Shelter Operations
- Food Banks
- Health Services
- Legal Services

The City is also proposing to reduce funding for the Rockway Street Waterline project and redirect the funds to the previously approved Valley Supportive Housing project.

Copies of the draft Substantial Amendment detailing the proposed amendments will be on public display on the City of Staunton's website <https://www.ci.staunton.va.us/departments/community-development/hud-citizen-participation-plan> from January 19 to January 26, 2021. Interested persons are encouraged to express their views, in writing, on the amended FY19 AAP to William Vaughn, vaughnwl@ci.staunton.va.us or P.O. Box 58, Staunton, Virginia 24401. Copies of the draft SA may be mailed or emailed upon request, if possible. All comments received by January 26, 2021 will be considered and appended to the document.

It is anticipated that City Council will adopt the Substantial Amendment at its scheduled meeting on Thursday, January 28, 2020 at 7:30 pm. The City intends to submit the approved Substantial Amendment to the U.S. Department of Housing and Urban Development (HUD) on or about January 31, 2021.

City of Staunton, VA

A certificate of advertisement is required. Please send to William Vaughn, Director of Community and Economic Development, City of Staunton, vaughnwl@ci.staunton.va.us.



CITY OF STAUNTON, VIRGINIA

SUBSTANTIAL AMENDMENT TO FY 2019 ANNUAL ACTION PLAN FOR CDBG CARES ACT FUNDS and PROJECT REALLOCATION CDBG

Overview/Objective

The federal CARES Act, P.L. 116-136, made available supplemental funding through the Community Development Block Grant (CDBG) Program. An additional \$125,136 in CDBG-CV funds were allocated to the City of Staunton by the US Department of Housing and Urban Development (USHUD).

Special USHUD waivers permit CDBG-CV funding to be utilized for public services and other activities that will prevent, prepare for, and respond to coronavirus. The broad flexible waivers will permit the City of Staunton to address the challenges facing the city.

The City of Staunton is also proposing an amendment to current projects in the 2019 Entitlement CDBG allocation. The previously approved Valley Supportive Housing project will be modified to provide \$30,000 for a roof replacement project on an 8-unit, Supportive Housing project located on Kalorama Street. This is a different location than previously approved; however, the new project proposes to serve additional persons. The metal roof at the proposed project site is in need of a full replacement. The project will benefit 8 low-income households currently living in the property. Beneficiaries are formally homeless households with disabilities. To accommodate the increased funding for this project, the City proposes a reduction in the Rockway Street Waterline project. The Rockway Street Waterline project is a multi-year project that will be completed in a future funding year. To accommodate the reduction, the City proposes funding the project in future funding years.

Public Comment

The U.S. Department of Housing and Urban Development (HUD) granted several waivers to program procedure to expedite the use of these funds. These waivers included an ability to amend the Citizen Participation Plan and allow for a much shorter timeframe for public display, use of the internet to make the Substantial Amendment available to the public and use of virtual meetings

to allow for input and comment. The City of Staunton advertised and made the Substantial Amendment available to the public on January 19, 2021 for a period of 7 days and held a virtual public hearing by call in on January 21, 2021.

Rationale for amendment

The Coronavirus Aid, Relief, and Economic Security Act, (CARES Act) which was signed into law on March 27, 2020, provides funds through the CDBG, ESG and HOPWA programs. The CARES Act provides for allocations of funds to prevent, prepare for, and respond to coronavirus.

The City of Staunton has taken stock of local needs and the parameters of each of the programs and determined how the funds allocated will be used in this community. The following activities will be funded:

- Subsistence Payments (rental, utility and mortgage assistance)
- Shelter Operations
- Food Banks
- Health Services
- Legal Services

The four (4) main objectives of the City of Staunton COVID response would be to:

- Providing emergency payments for rental, mortgage and utility assistance to low-to-moderate income households.
- Provide funding for additional emergency shelter staffing due to the increased shelter space needs resulting from social distancing.
- Provide food assistance to low to moderate income households.
- Increase outreach and education to underserved populations to provide prevention messaging in socially vulnerable areas, as identified by CDC social vulnerability index maps, of the City.

1. CV Salvation Army Homeless Prevention (rent/utilities/mortgage payments):

City of Staunton residents have experienced significant financial hardship due to social distancing restrictions imposed in response to the COVID-19 public health emergency. The goal of the subsistence payments program would be to provide low-moderate income, qualifying households short term (no more than 3 months) rental and/or utility assistance.

Program Budget

The Salvation Army estimates serving 100 people with rent/utilities/mortgage payments with a total budget of \$20,000.

TOTAL BUDGET FROM CARES FUNDS \$60,000

2. CV Salvation Army Food Assistance

The City of Staunton residents have experienced significant financial hardship due to social distancing restrictions imposed in response to the COVID-19 public health emergency. The Salvation Army's volunteers distribute groceries twice a week to local school stops and once a week delivering groceries to residents unable to leave their homes. This program will benefit low-to-moderate income households within the City of Staunton.

Program Budget

The Salvation Army will serve approximately 300 low-income people with a \$5,000 budget.

TOTAL BUDGET FROM CARES FUNDS \$14,482

3. CV Blue Ridge Legal Services

The City of Staunton has recognized the need to provide legal aid services to persons at risk of homelessness as a result of COVID-19. Such services include legal services to provide legal aid to low- and moderate-income households facing evictions. Blue Ridge Legal Services will hire an additional attorney for the balance of 2020 to add the capacity needed to meet the anticipated demand for legal aid for City of Staunton residents when the courts reopen.

Program Budget

Blue Ridge Legal Services estimates spending \$15,109 serving approximately 10 people.

TOTAL BUDGET FROM CARES FUNDS \$40,109

4. CV Shelter Operations Valley Mission:

The City of Stanton has recognized the need to assist Valley Mission's effort in providing emergency shelter for person's experiencing homelessness during the pandemic. As a result of increased shelter space needs resulting from social distancing measures, there is a need for additional emergency shelter staff support. Financial support will provide 10 weeks of gross salary for emergency shelter staff.

Program Budget

The City of Staunton estimates providing emergency shelter to 46 people with a total budget of \$30,000.

TOTAL BUDGET FROM CARES FUNDS \$60,000

5. CV Health Education and Services

Funds will be used to hire a Community Health Worker (CHW) to provide education and resources on COVID-19 to underserved areas in the City of Staunton. Funds will support the CHW salary, and this position can be used for both outreach and contact tracing for Staunton. Funds will also be used to support purchase of hand sanitizer, masks and other items that help with COVID prevention to distribute to communities as well as printing of educational materials. CHW can also work with the Office of Health Equity (VDH) to develop maps of neighborhoods at high risk for severe COVID disease due to age/chronic medical conditions/low income/high density housing and develop strategies to reach these populations.

Program Budget

Central Shenandoah Health District will serve 425 people with a total budget of \$30,000.

TOTAL BUDGET FROM CARES FUNDS \$65,000

6. CV Program Administration

In order to provide oversight and programmatic technical assistance to grantees, The City of Staunton will use the maximum allowed percentages for both CDBG-CV to pay for program administration.

Program Budget

Total cost for Program Administration is \$25,027

TOTAL BUDGET FROM CARES FUNDS \$66,545

Amendments to 2019 Entitlement Projects below

Project Name	Valley Supportive Housing-PSH
Target Area	Citywide
Goals Supported	Affordable Housing
Needs Addressed	Housing/services for the Homeless
Funding	CDBG: \$30,000
Description	Valley Supportive Housing will use CDBG funding to replace the metal roof at an 8-unit supportive housing development for formally homeless individuals with mental health disabilities. \$10,000 previously awarded to purchase a four-unit structure for formally homeless individuals with mental health disabilities.
Target Date	04/01/2021
Estimate the number and type of families that will benefit from the proposed activities	Target minimum number of individuals to be served in the program year = 8 homeless individuals.
Location Description	Citywide
Planned Activities	Valley Supportive Housing will use CDBG funding to replace the metal roof at an 8-unit supportive housing development for formally homeless individuals with mental health disabilities.

Project Name	Public Facility Improvements-Rockway Street Waterline
Target Area	Rockway Street
Goals Supported	Improve public facilities and infrastructure
Needs Addressed	Public Facilities and Infrastructure
Funding	CDBG: \$125,796
Description	This project will provide funding for approximately 810 ft of waterline along Rockway Street from Lambert Street. Project funding reduced by \$20,000.
Target Date	9/30/2021
Estimate the number and type of families that will benefit from the proposed activities	Target minimum number of individuals to be served in the program year = 40 low-income households
Location Description	Rockway Street from Lambert Street in the City
Planned Activities	This project will provide funding for approximately 810 ft of waterline along Rockway Street from Lambert Street.

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 28, 2021	Staff Member: Phil Trayer
Item #	D	
Ordinance #		
Department:	Finance	
Council Vision:	Responsive, Efficient Government	
Subject:	Presentation of Quarterly Financial Report	

Background: Phil Trayer, Chief Finance Officer, will present a financial report for the second quarter of fiscal year 2021. The quarterly financial report and the sales, meals and lodging tax history reports are attached.

Attachments: Financial Report; Sales, Meals and Lodging Tax Reports

City Manager's Recommendation: Not applicable.

Suggested Motion: Not applicable.

City Manager: Steven L. Rosenberg

FY 2021 FINANCIAL REPORT - UNAUDITED
DECEMBER 31, 2020

GENERAL FUND REVENUES	FY2021 BUDGET	ACTUAL YTD	AVAILABLE BUDGET	% RECEIVED	Comment
PROPERTY TAXES					
Real Estate Taxes 2020 (75%) & 2021 (25%)	\$ 18,212,500	\$ 5,034,654	\$ 13,177,846	28%	75% of 2021 Taxes due June 20, 2021 25% of 2020 Taxes due Dec 5, 2020
Real Estate - Public Service	902,500	925,893	(23,393)	103%	100% of 2020 Taxes due Dec 5, 2020
Real Estate - Interest	160,000	40,825	119,175	26%	
Real Estate- Penalty	120,000	62,587	57,413	52%	
Real Estate Tax -Downtown Serv District	118,750	32,916	85,834	28%	25% due Dec 5; 75% due June 20
Personal Property Taxes 2020-...	5,217,000	5,171,984	45,016	99%	100% of 2020 PP Tax due December 5, 2020
Personal Property Taxes -Prior Written Off	-	209	(209)	#DIV/0!	
Personal Property Taxes- Public Service	4,000	2,685	1,315	67%	
Personal Property -Interest	55,000	28,347	26,653	52%	
Personal Property - Penalty	85,000	35,463	49,537	42%	
Machinery & Tools Tax	486,000	468,792	17,208	96%	100% Tax Due December 5, 2020
TOTAL PROPERTY TAXES	\$ 25,360,750	\$ 11,804,356	\$ 13,556,394	47%	
OTHER LOCAL TAXES					
Business & Occupational Licenses	\$ 1,650,000	\$ 153,828	\$ 1,496,172	9%	BPOL License due March 1, 2021
Water Utility Tax	285,000	114,189	170,811	40%	Paid Monthly w/ 1-2 months delay in collection
Gas Utility	300,000	105,075	194,925	35%	Paid Monthly w/ 1-2 months delay in collection
Electric Utility	585,000	196,418	388,582	34%	Paid Monthly w/ 1-2 months delay in collection
Local Sales Tax	3,393,750	1,626,114	1,767,636	48%	Paid Monthly w/ 2 months delay in payment from State
Bank Stock	498,000	-	498,000	0%	Paid in June
Recordation	220,000	111,644	108,356	51%	Paid Monthly w/ 1 month delay in collection
Cigarette Tax	390,000	213,750	176,250	55%	Paid at sale date, no delay in collection
Lodging Tax	836,000	300,321	535,679	36%	Paid Monthly w/ 1 month delay in collection
Meals Tax	3,562,500	1,863,700	1,698,800	52%	Paid Monthly w/ 1 month delay in collection
Probate Tax on Wills	7,000	3,726	3,274	53%	
Short Term Rental Tax	26,000	6,876	19,124	26%	
Local Communications Tax	1,211,250	356,267	854,983	29%	Paid Monthly w/ 1-2 months delay in collection
TOTAL OTHER LOCAL TAXES	\$ 12,964,500	\$ 5,051,908	\$ 7,912,592	39%	
PERMITS					
Short Term Rental Registration/Precious Metal	\$ -	\$ 400	\$ (400)	#DIV/0!	Airbnb Fees
Judicial Charges for Services	900	383	518	43%	
Public Safety Charges for Services	224,500	112,528	111,972	50%	
Planning and Development Charges for Services	10,000	6,425	3,575	64%	
TOTAL PERMITS	\$ 235,400	\$ 119,736	\$ -	\$ 115,664	51%

DECEMBER 31, 2020

GENERAL FUND REVENUES	FY2021 BUDGET	ACTUAL YTD	AVAILABLE BUDGET	% RECEIVED	
FINES & FORFEITURES					
Circuit Court Fines	\$ 168,000	\$ 24,364	\$ 143,636	15%	
Court Recorder Fees	46,000	15,000	\$ 31,000	33%	
Courthouse Maintenance Fee	12,000	3,080	8,920	26%	
Animal Control Fines	6,000	3,455	2,545	58%	
TOTAL FINES & FORFEITURES	\$ 232,000	\$ 45,899	\$ 186,101	20%	
REVENUE FROM USE OF PROPERTY					
Interest Revenue	\$ 200,000	\$ 61,092	\$ 138,908	31%	
Rental of Real Property	40,920	9,300	31,620	23%	
Rental of Real Property-Recreation	5,580	2,095	3,486	38%	
TOTAL REVENUE FROM USE OF PROPERTY	\$ 246,500	\$ 72,486	\$ 174,014	29%	
CHARGES FOR SERVICES					
Property Clean Up Fees	\$ 2,000	\$ 1,503	\$ 497	75%	
Payment in Lieu of Tax from Proprietary Funds	1,137,510	-	1,137,510	0%	Allocation transfers from Enterprise Funds
DMV Stop Fees	5,500	3,468	2,032	63%	
Administrative Fees	23,000	3,960	19,040	17%	
Judicial Operations Charges for Services	109,717	26,662	83,055	24%	
Public Safety Tax Exempt Service Charge	6,357	6,358	(1)	100%	
Sale of Publications & Maps	-	250	(250)	#DIV/0!	
Recreation Charges for Services	\$ 560,500	124,337	436,163	22%	
TOTAL CHARGES FOR SERVICES	\$ 1,844,584	\$ 166,538	\$ 1,678,046	9%	
MISCELLANEOUS					
Sale of Salvage & Surplus	\$ 15,000	\$ 2,365	\$ 12,635	16%	
Payment in Lieu of Taxes SRHA	14,000	14,023	(23)	100%	
Donations	9,997	24,925	(14,928)	249%	
Miscellaneous	-	37,031	(37,031)	#DIV/0!	
TOTAL MISCELLANEOUS	\$ 38,997	\$ 78,343	\$ (39,346)	201%	
RECOVERED COSTS					
Wellness Program Reimbursement	\$ 10,000	\$ -	\$ 10,000	0%	
Recovered Costs - Courts	58,000	-	58,000	0%	
Recovered Costs- Public Safety	589,874	633,818	(43,944)	107%	Buy-In from Harrisonburg/Rockingham for Regional Jail
Recovered Costs- Police Security	45,000	9,240	35,760	21%	
Recovered Costs- Insurance Recovery	59,826	60,707	(881)	101%	
Recovered Costs- Public Works	25,000	1,807	23,193	7%	
Recovered Costs- Education	379,000		379,000	0%	Software Annual Costs and Bus Mechanic Services
Recovered Costs- Recreation/ Library	55,000	23,881	31,119	43%	Talking Book Center Reimbursement
TOTAL RECOVERED COSTS	\$ 1,221,700	\$ 729,453	\$ 492,247	60%	
TRANSFERS					
Transfers From Health	\$ 150,000	\$ -	\$ 150,000	0%	
Transfers From City CIP	307,478		307,478	0%	
TOTAL TRANSFERS	\$ 457,478	\$ -	\$ 457,478	0%	

DECEMBER 31, 2020

GENERAL FUND REVENUES	FY2021 BUDGET	ACTUAL YTD	AVAILABLE BUDGET	% RECEIVED	
COMMONWEALTH OF VIRGINIA REVENUE					
Public Facilities Tax	\$ 105,000	\$ 7,947	\$ 97,053	8%	State sales tax revenue from Hotel 24 South
Recordation	70,000	-	70,000	0%	
Rolling Stock Taxes	10,000	9,647	353	96%	
Motor Vehicle Rental Tax	87,500	55,431	32,069	63%	
HB599 Law Enforcement	954,888	477,444	477,444	50%	Quarterly Payments from State
Personal Property Tax Relief Act (PPTRA)	1,652,200	1,321,760	330,440	80%	
Recordation - Grantor's Tax	50,000	29,616	20,384	59%	
Juror/Witness Fees	10,000	-	10,000	0%	
DCJS- Victim Witness Grant	28,137	4,429	23,708	16%	
DMV Four for Life Funds	23,305	23,738	(433)	102%	
DMV Animal License Plates	750	225	525	30%	
State Crime Forfeited Assets- Police	-	3,544	(3,544)	#DIV/0!	Revenue based on criminal drug activity
Fire Programs Fund	90,496	90,496	-	100%	
E911 Wireless Funds	95,000	48,900	46,100	51%	Grants from the Wireless Board of Virginia
Street & Highway Maintenance	4,214,682	2,149,321	2,065,361	51%	Quarterly Payments from State
Miscellaneous State Aid	20,000	23,184	(3,184)	116%	
Public Assistance	1,370,208	573,139	797,069	42%	
CSA Administrative Fees	10,787	10,787	-	100%	
Comprehensive Services Act (CSA)	2,192,100	527,953	1,664,147	24%	
VA Comm for the Arts	4,500	-	4,500	0%	
Library	153,150	80,184	72,966	52%	Quarterly Payments from State
Commissioner of Revenue	127,423	52,499	74,924	41%	
Treasurer	123,602	49,686	73,916	40%	
Electoral Board & Registrar	38,525	-	38,525	0%	
Commonwealth Attorney	544,150	230,827	313,323	42%	
Sheriff	339,484	139,203	200,281	41%	
Circuit Court Clerk	310,151	100,139	210,012	32%	
Circuit Court Technology Grant	16,929	7,816	9,113	46%	
VA Tourism Corp Grants	-	10,000	(10,000)	#DIV/0!	
TOTAL COMMONWEALTH OF VIRGINIA	\$ 12,642,967	\$ 6,027,913	\$ 6,615,054	48%	
FEDERAL REVENUES					
Victim Witness Federal Grant	\$ 84,411	\$ 13,286	\$ 71,125	16%	
FEMA Disaster Payment	-		0	#DIV/0!	
Federal DMV Grant	12,352		12,352	0%	
U S Marshall Forfeited Asset	8,901		8,901	0%	
FEMA Fire SAFER Grant	64,755	87,936	(23,181)	136%	
CARES Act Funding	4,307,751	4,251,182	56,569	99%	
DCJS GRANTS	6,912	1,254			
Welfare Public Assistance	1,176,404	574,232	602,172	49%	
Federal Forfeited Assets	-	-	-	#DIV/0!	
TOTAL FEDERAL REVENUE	\$ 5,661,486	\$ 4,927,890	\$ 727,939	87%	
PRIOR YEAR APPROPRIATIONS					
Appropriation for Prior Year Encumbrances	\$ 368,529	\$ -	\$ 368,529	0%	Outstanding Encumbrances at June 30, 2019
Appropriation of Prior Year Fund Balance	153,000	-	\$ 153,000	0%	
Appropriation of Prior Year Fund Balance	4,913,354	-	\$ 4,913,354		
TOTAL PRIOR YEAR APPROPRIATIONS	\$ 5,434,883	\$ -	\$ 5,434,883	0%	
TOTAL GENERAL FUND REVENUES	\$ 66,341,245	\$ 29,024,521	\$ 37,311,066	43.8%	

FY 2021 FINANCIAL REPORT
DECEMBER 31, 2020

GENERAL FUND EXPENDITURES	FY2021 BUDGET	ACTUAL YTD	ENCUMBRANCES	AVAILABLE BUDGET	% EXPENDED
<u>GENERAL GOVERNMENT ADMINISTRATION</u>					
CITY COUNCIL	\$ 141,941	\$ 59,123	\$ 8,500	\$ 74,318	48%
CLERK OF COUNCIL	49,442	21,741	5,085	22,617	54%
CITY MANAGER	541,417	272,288	-	269,129	50%
HUMAN RESOURCES	603,972	302,296	13,827	287,849	52%
CITY ATTORNEY	365,706	152,575	15,261	197,870	46%
COMMUNICATIONS MANAGER	80,636	15,159	-	65,477	19%
PROFESSIONAL CONSULTANTS	70,000	50,500	1,000	18,500	74%
CITY MEMBERSHIPS	28,284	26,784	-	1,500	95%
FINANCE	1,700,013	533,254	137,820	1,028,939	39%
ASSESSOR	288,674	148,473	15	140,186	51%
COMMISSIONER OF REVENUE	333,181	174,057	416	158,708	52%
TREASURER	358,382	222,275	447	135,660	62%
REGISTRAR	193,933	104,447	52	89,434	54%
INFORMATION TECHNOLOGY	1,189,374	505,101	230,679	453,594	62%
RISK MANAGEMENT	745,000	335,744	109,684	299,572	60%
TOTAL GENERAL GOV'T ADMINISTRATION	\$ 6,689,955	\$ 2,923,817	\$ 522,786	\$ 3,243,352	52%
<u>JUDICIAL ADMINISTRATION</u>					
CIRCUIT COURT	\$ 158,904	\$ 76,001	\$ -	\$ 82,903	48%
GENERAL DISTRICT COURT	10,900	2,608	-	8,292	24%
MAGISTRATES	2,000	-	-	2,000	0%
JUVENILE DOMESTIC RELATIONS COURT	75,092	-	-	75,092	0%
CLERK OF THE CIRCUIT COURT	539,335	281,028	10,938	247,369	54%
SHERIFF	622,339	357,475	3,020	261,844	58%
VICTIM/WITNESS GRANT	120,266	39,626	-	80,640	33%
COMMONWEALTH ATTORNEY	817,556	343,733	1,052	472,771	42%
TOTAL JUDICIAL ADMINISTRATION	\$ 2,346,392	\$ 1,100,472	\$ 15,010	\$ 1,230,911	48%
<u>PUBLIC SAFETY</u>					
POLICE	\$ 5,378,388	\$ 2,664,948	\$ 126,674	\$ 2,586,765	52%
E911 CENTER	849,788	385,157	43,080	421,551	50%
FIRE	3,124,612	1,905,563	13,317	1,205,732	61%
COMMUNITY PUBLIC SAFETY	168,195	91,345	-	76,850	54%
JUVENILE DETENTION HOME	110,058	60,428	-	49,630	55%
JAIL	2,416,625	1,904,159	-	512,466	79%
OFFICE ON YOUTH	158,500	36,956	1,396	120,148	24%
INSPECTIONS	363,850	192,383	59	171,408	53%
ANIMAL CONTROL	85,500	28,460	-	57,040	33%
MEDICAL EXAMINER	250	180	-	70	72%
TOTAL PUBLIC SAFETY	\$ 12,655,766	\$ 7,269,580	\$ 184,525	\$ 5,201,660	59%

DECEMBER 31, 2020

GENERAL FUND EXPENDITURES	FY2021 BUDGET	ACTUAL YTD	NCUMBRANCES	AVAILABLE BUDGET	% EXPENDED	
PUBLIC WORKS						
ENGINEERING	\$ 337,657	\$ 135,201	\$ 119	\$ 202,337	40%	
PUBLIC WORKS ADMINISTRATION	277,695	164,294	1,034	112,367	60%	
STREETS	3,075,405	685,584	122,051	2,267,769	26%	
TRAFFIC ENGINEERING	244,748	40,811	2,866	201,071	18%	
TRAFFIC SIGNALS	328,639	128,124	11,227	189,289	42%	
BUILDING MAINTENANCE	1,829,460	571,146	91,307	1,167,008	36%	
EQUIPMENT MAINTENANCE	445,034	237,365	558	207,111	53%	
TOTAL PUBLIC WORKS	\$ 6,538,638	\$ 1,962,524	\$ 229,162	\$ 4,346,952	34%	
HEALTH AND WELFARE						
PUBLIC HEALTH	\$ 308,738	\$ 141,035	\$ -	\$ 167,703	46%	
VALLEY COMM SERVICES BOARD	184,139	92,070	-	92,070	50%	Quarterly Payments
COMMUNITY POLICY MGMNT TEAM (CSA)	3,150,000	1,044,525	-	2,105,475	33%	
DEPT OF SOCIAL SERVICES	3,459,478	1,637,618	-	1,821,860	47%	
TAX RELIEF FOR THE ELDERLY	199,883	-	-	199,883	0%	Real Estate Tax Relief- processed May each year
COMMUNITY WELFARE ASSISTANCE	60,143	290,314	-	(230,171)	483%	Outside Agency Contributions
TOTAL HEALTH AND WELFARE	\$ 7,362,381	\$ 3,205,562	\$ -	\$ 4,156,819	44%	
EDUCATION -OTHER						
EDUCATIONAL CONTRIBUTIONS-BRCC	\$ 9,000	\$ 8,200	\$ -	\$ 800	91%	Contribution to Blue Ridge Community College
TOTAL EDUCATION-OTHER	\$ 9,000	\$ 8,200	\$ -	\$ 800	91%	
PARKS, RECREATION, LIBRARY, CULTURAL						
PARKS AND RECREATION ADMIN	\$ 1,151,637	\$ 309,156	\$ 29,718	\$ 812,763	29%	
HORTICULTURE	167,242	76,868	-	90,374	46%	
GOLF COURSE	137,404	46,188	-	91,216	34%	
COMMUNITY RECREATION ASSISTANCE	20,000	16,000	-	4,000	80%	Boys and Girls Club
PARK MAINTENANCE	1,108,076	436,583	12,234	659,260	41%	
COMMUNITY CULTURAL CONTRIBUTIONS	15,500	12,400	-	3,100	80%	Outside Agency Contributions
LIBRARY	1,115,160	486,630	2,776	625,754	44%	
TOTAL PARKS, RECREATION, LIBRARY, CULTURAL	\$ 3,715,019	\$ 1,383,825	\$ 44,727	\$ 2,286,466	38%	
PLANNING AND COMMUNITY DEVELOPMENT						
PLANNING	\$ 314,802	\$ 138,608	\$ 26	\$ 176,168	44%	
COMMUNITY DEVELOPMENT ASSISTANCE	335,374	508,544	-	(173,170)	152%	Outside Agency Contributions
ECONOMIC DEVELOPMENT	1,427,845	689,944	-	737,901	48%	
TOURISM	573,059	244,709	9,757	318,593	44%	
STAUNTON WELCOME CENTER	56,181	10,303	-	45,878	18%	
TRANSPORTATION-CSPDC	1,513	-	-	1,513	0%	
TOTAL PLANNING AND COMMUNITY DEVELOPMENT	\$ 2,708,774	\$ 1,592,108	\$ 9,783	\$ 1,106,883	59%	

SEPTEMBER 30, 2020

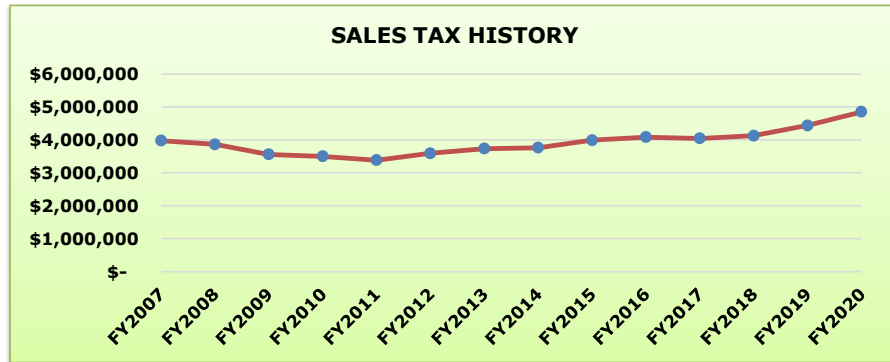
GENERAL FUND EXPENDITURES	FY2021 BUDGET	ACTUAL YTD	ENCUMBRANCES	AVAILABLE BUDGET	% EXPENDED	
<u>TRANSFERS TO OTHER FUNDS/NON-DEPARTMENTAL</u>						
TRANSFER TO DEBT SERVICE FUND	\$ 5,844,415	\$ -	\$ -	\$ 5,844,415	0%	Annual Debt Payments
TRANSFER TO CIP FUND	2,515,000	-	-	2,515,000	0%	
TRANSFER TO PARKING FUND				-	#DIV/0!	
TRANSFER TO EDUCATION FUND	13,637,502	7,615,297	-	6,022,205	56%	Education Transfer/ Second half to occur in June
NON-DEPARTMENTAL EXPENDITURES	2,318,404	825	-	2,317,579	0%	Distribution account-equal to zero at year end
TOTAL TRANSFERS AND NON-DEPARTMENTAL	\$ 24,315,321	\$ 7,616,122	\$ -	\$ 16,699,199	31%	
TOTAL GENERAL FUND EXPENDITURES	\$ 66,341,245	\$ 27,062,210	\$ 1,005,994	\$ 38,273,042	42.3%	

FY2021 GENERAL FUND BUDGET

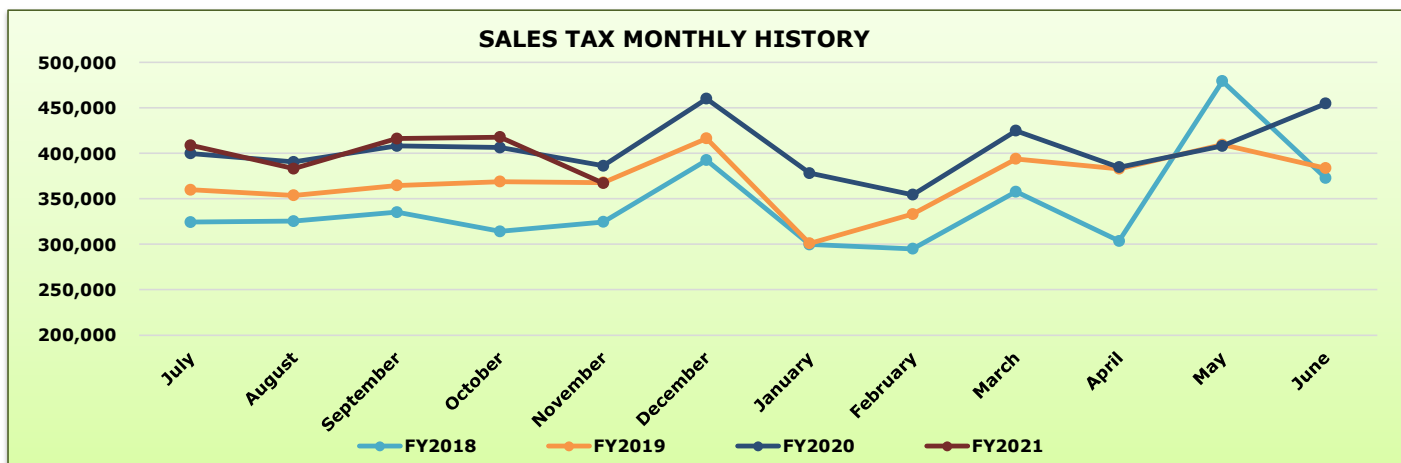
ADOPTED BUDGET	\$ 56,374,701	JULY 1, 2020
ENCUMBRANCE CARRY FORWARDS	368,529	JULY 1, 2020
FY2021 BUDGET AMENDMENT NO. 1	41,250	July 23, 2020
FY2021 BUDGET AMENDMENT NO. 2	500,000	August 27, 2020
FY2021 BUDGET AMENDMENT NO. 3	3,960,460	September 24, 2020
FY2021 BUDGET AMENDMENT NO. 4	5,096,305	December 10, 2020
	-	
FY2021 REVISED BUDGET	\$ 66,341,245	
FY2021 REVENUES	\$ 29,024,521	
FY2021 EXPENDITURES	<u>\$ (27,062,210)</u>	
FY2021 NET YTD	\$ 1,962,312	

LOCAL SALES TAX - FY2021 - 1% Tax Rate

	FY2017	FY2018	FY2019	FY2020	FY2021	% Change	YTD Change
July	333,714.89	324,282.53	359,853.28	399,841.46	408,778.45	2.2%	\$ 8,936.99
August	331,429.16	325,420.04	353,757.54	390,364.99	383,138.70	-1.9%	\$ (7,226.29)
September	345,905.68	335,270.60	364,511.12	408,012.82	416,224.54	2.0%	\$ 8,211.72
October	329,371.48	314,014.94	368,778.54	406,308.21	417,972.78	2.9%	\$ 11,664.57
November	331,907.37	324,549.36	367,724.17	386,214.42	367,040.14	-5.0%	\$ (19,174.28)
December	402,206.55	392,310.26	416,329.42	459,870.92		0.0%	
January	290,166.67	299,703.49	301,088.06	378,159.00		0.0%	
February	295,776.24	295,141.63	333,109.54	354,448.27		0.0%	
March	353,757.64	357,635.60	393,767.00	424,727.00		0.0%	
April	333,521.23	303,519.77	382,962.51	384,623.98		0.0%	
May	343,047.36	479,377.67	409,438.98	408,067.89		0.0%	
June	348,854.14	372,636.24	383,654.21	454,691.58		0.0%	
Totals	\$ 4,039,658.41	\$ 4,123,862.13	\$ 4,434,974.37	\$ 4,855,330.54	\$ 1,993,154.61		\$ 2,412.71
Budget	\$ 4,050,000.00	\$ 4,100,400.00	\$ 4,015,000.00	\$ 4,300,000.00	\$ 3,393,750.00		
Budget Variance	\$ (10,341.59)	\$ 23,462.13	\$ 419,974.37	\$ 555,330.54	\$ (1,400,595.39)		
% OF BUDGET	99.7%	100.6%	110.5%	112.9%	58.7%		
% CHANGE- YEAR	1.3%	2.1%	7.5%	9.5%	-58.9%		

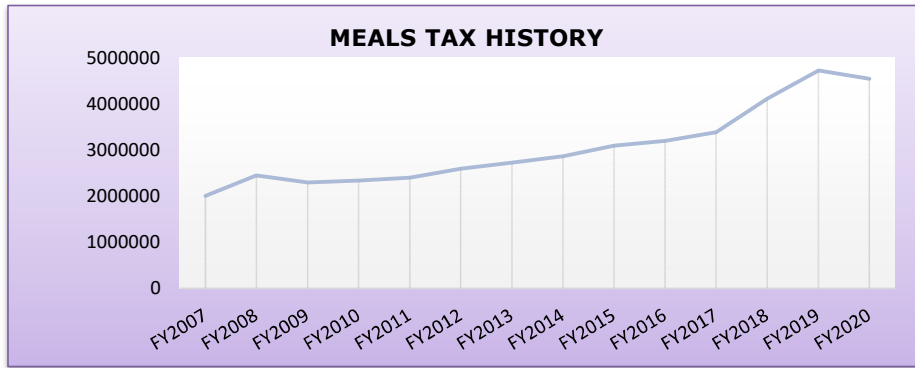


FY2007	\$ 3,975,958	
FY2008	\$ 3,862,575	-2.9%
FY2009	\$ 3,554,096	-8.0%
FY2010	\$ 3,495,905	-1.6%
FY2011	\$ 3,381,018	-3.3%
FY2012	\$ 3,588,737	6.1%
FY2013	\$ 3,729,201	3.9%
FY2014	\$ 3,760,505	0.8%
FY2015	\$ 3,988,839	6.1%
FY2016	\$ 4,079,919	2.3%
FY2017	\$ 4,039,658	-1.0%
FY2018	\$ 4,123,862	2.1%
FY2019	\$ 4,434,974	7.5%
FY2020	\$ 4,855,331	9.5%

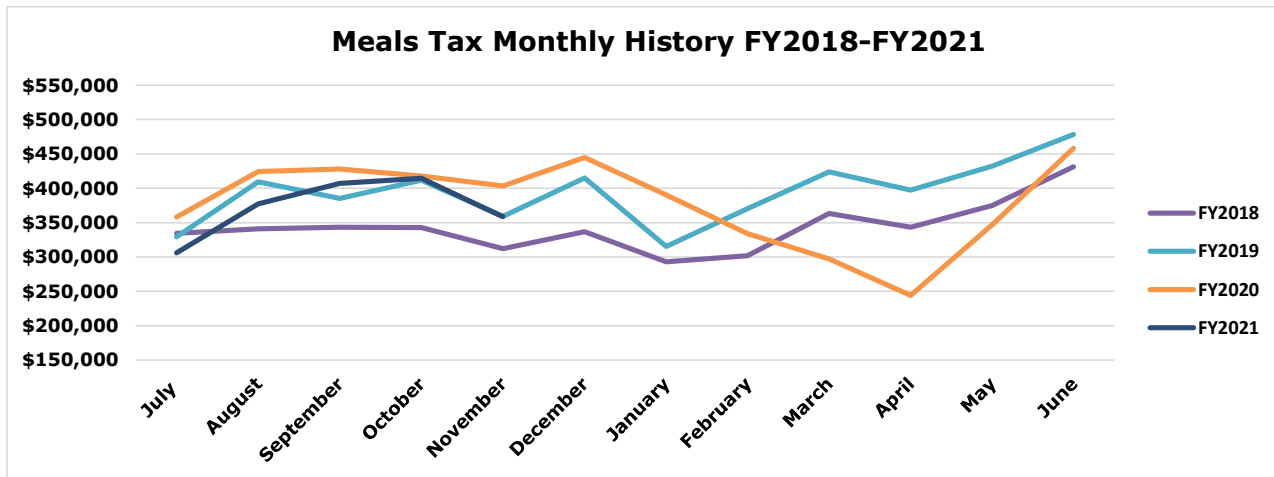


FY 2021 MEALS TAX - 7% Tax Rate

	6% TAX RATE	7% TAX RATE	7% TAX RATE	7% TAX RATE	7% TAX RATE		
	FY2017	FY2018	FY2019	FY2020	FY2021	% Change	\$ Change
July	277,144.75	334,578.70	329,572.70	358,211.89	305,920.13	-17.1%	(52,291.76)
August	296,419.00	341,094.46	409,425.39	424,089.70	377,519.13	-11.0%	(46,570.57)
September	292,135.16	343,277.21	385,385.11	427,994.74	407,128.28	-4.9%	(20,866.46)
October	285,660.12	342,809.63	411,876.40	417,689.65	414,546.00	-0.8%	(3,143.65)
November	274,337.57	312,114.40	359,315.82	403,285.45	358,586.27	-11.1%	(44,699.18)
December	286,909.42	336,803.99	415,029.83	444,990.45		0.0%	-
January	240,970.03	293,064.10	315,163.07	390,332.83		0.0%	-
February	251,855.24	301,835.99	370,264.93	334,123.44		0.0%	-
March	283,281.51	363,206.78	423,831.12	297,411.19		0.0%	-
April	309,789.07	343,386.30	397,109.84	244,201.14		0.0%	-
May	300,966.20	374,830.10	432,042.64	347,244.34		0.0%	-
June	291,868.85	431,265.13	478,306.06	458,277.82		0.0%	-
Actuals	\$ 3,391,336.92	\$ 4,118,266.79	\$ 4,727,322.91	\$ 4,547,852.64	\$ 1,863,699.81		\$ (167,571.62)
Budget	3,200,000.00	3,850,000.00	4,112,500.00	4,600,000.00	3,562,500.00		
Budget Variance	191,337	268,267	614,823	(52,147)	(1,698,800)		
% of BUDGET	106.0%	107.0%	115.0%	98.9%	52.3%		



FY2007	\$ 2,004,839	
FY2008	\$ 2,456,629	22.5%
FY2009	\$ 2,304,448	-6.2%
FY2010	\$ 2,344,698	1.7%
FY2011	\$ 2,406,577	2.6%
FY2012	\$ 2,599,776	8.0%
FY2013	\$ 2,732,598	5.1%
FY2014	\$ 2,868,910	5.0%
FY2015	\$ 3,099,130	8.0%
FY2016	\$ 3,203,638	3.4%
FY2017	\$ 3,391,337	5.9%
FY2018	\$ 4,118,267	21.4%
FY2019	\$ 4,727,323	14.8%
FY2020	\$ 4,547,853	-3.8%



MEALS TAX HISTORY- RATE INCREASES

JULY 1, 1986

JULY 1, 1994

SEPTEMBER 1, 1998

JULY 1, 2007

JULY 1, 2017

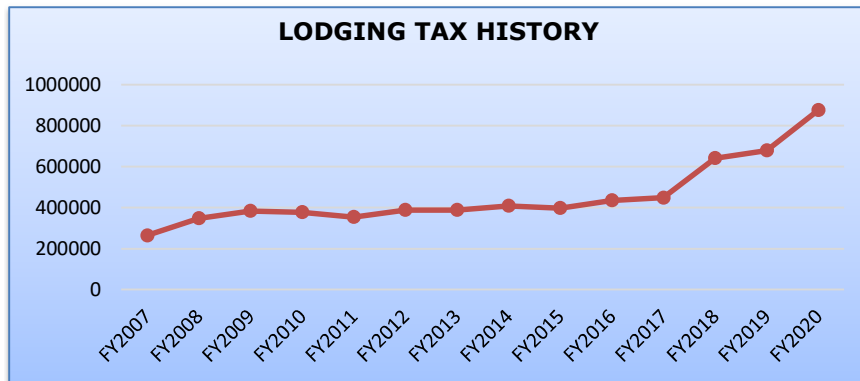
NEW STREET PARKING GARAGE FUNDING

CIP/ SCHOOL PROJECTS

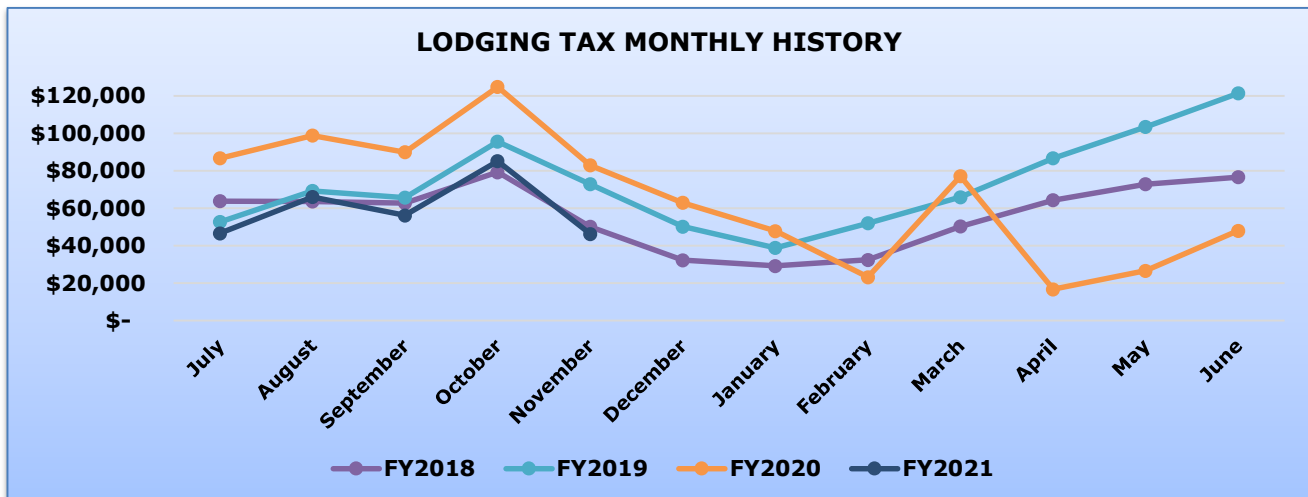
SCHOOL PROJECT - STAUNTON HIGH RENOVATION

FY 2021 LODGING TAX - 6.7% Tax Rate

TAX RATE	6.70%						
	FY2017	FY2018	FY2019	FY2020	FY2021	% CHANGE	\$ Change
July	\$ 52,799	\$ 63,907	\$ 52,798	\$ 86,792	\$ 46,648	-86.1%	(40,143.07)
August	\$ 67,072	\$ 63,738	\$ 69,287	\$ 98,765	\$ 66,056	-33.1%	(32,708.41)
September	\$ 61,866	\$ 62,756	\$ 65,785	\$ 89,978	\$ 56,235	-37.5%	(33,743.12)
October	\$ 85,289	\$ 79,262	\$ 95,600	\$ 124,738	\$ 85,131	-31.8%	(39,607.56)
November	\$ 51,208	\$ 50,187	\$ 72,869	\$ 82,915	\$ 46,252	-44.2%	(36,663.39)
December	\$ 35,136	\$ 32,225	\$ 50,208	\$ 63,057		0.0%	
January	\$ 25,091	\$ 29,239	\$ 38,856	\$ 47,730		0.0%	
February	\$ 31,475	\$ 32,490	\$ 52,085	\$ 23,204		0.0%	
March	\$ 43,728	\$ 50,304	\$ 65,973	\$ 77,152		0.0%	
April	\$ 59,636	\$ 64,326	\$ 86,719	\$ 16,730		0.0%	
May	\$ 65,931	\$ 72,905	\$ 103,399	\$ 26,667		0.0%	
June	\$ 61,612	\$ 76,577	\$ 121,369	\$ 47,878		0.0%	
Actuals	\$ 640,843	\$ 677,917	\$ 874,948	\$ 785,605	\$ 300,321		\$ (182,865.55)
Budget Totals	\$ 540,000	\$ 575,000	\$ 890,000	\$ 890,000	\$ 836,000		
Budget Variance	\$ 100,843	\$ 102,917	\$ (15,052)	\$ (104,395)	\$ (535,679)		
% of BUDGET	119%	118%	98%	88%	36%		
% CHANGE-YEAR	47.3%	5.8%	29.1%	-10.2%			



	TOTAL REVENUE	% CHANGE
FY2007	\$ 348,115	
FY2008	\$ 383,716	31.9%
FY2009	\$ 376,829	10.2%
FY2010	\$ 354,239	-1.8%
FY2011	\$ 388,022	-6.0%
FY2012	\$ 388,721	9.5%
FY2013	\$ 408,906	0.2%
FY2014	\$ 397,786	5.2%
FY2015	\$ 447,792	-2.7%
FY2016	\$ 448,175	9.4%
FY2017	\$ 640,843	3.0%
FY2018	\$ 677,917	43.0%
FY2019	\$ 874,948	5.8%
FY2020	\$ 785,605	-10.2%



CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 28, 2021	Steven L. Rosenberg City Manager
Item #	E	
Ordinance #		
Department:	City Manager	
Council Vision:	Responsive, Efficient Government	
Subject:	Uncodified Emergency Ordinance Regarding Additional Conditions for Use of Electronic Communications in Meetings of City Public Bodies	

Background: In response to the Novel Coronavirus (COVID-19) emergency and disaster, the City Manager, in his capacity as Director of Local Emergency Management, declared a local emergency on March 16, 2020. By such a declaration, the City positioned itself to undertake measures in response to the emergency and disaster. Subsequently:

- At its March 18, 2020, special-emergency called meeting, City Council consented to and confirmed such a declaration.
- At its March 24, 2020, special-emergency called meeting, City Council adopted uncodified emergency Ordinance 2020-04, reratifying and reaffirming the declaration of a local emergency and disaster due to novel coronavirus; implementing emergency procedures to ensure continuity of government; ratifying and affirming the city manager's authority and exercise of authority and discretion in taking actions in the best interest of the City; and authorizing the city manager to take actions to implement the provisions of the ordinance.
- At its September 24, 2020, regular meeting, City Council adopted Ordinance No. 2020-24, extending until January 15, 2021, the emergency procedures to ensure continuity of government.
- At its January 14, 2021, regular meeting, City Council adopted Ordinance No. 2021-04,

extending until April 9, 2021, the emergency procedures to ensure continuity of government.

In the discussion preceding Council's vote on the most recent extension, certain Council members questioned whether other issues might be addressed in the ordinance to be considered. Specifically, mention was made of conditions for the use of electronic communications platforms (e.g., mandatory use of video) and electronic access to meetings of the Council's Nominations Committee. The vote proceeded without those issues being addressed, but it was the consensus of Council to consider another ordinance at a subsequent meeting. Such a proposed ordinance is attached.

Attachments:

- Attachment 1— March 16, 2020 Declaration of Local Emergency by the City of Staunton Local Director of Emergency Management
- Attachment 2— March 18, 2020 Resolution of the Council of the City of Staunton, Virginia Consenting to and Confirming Declaration of a Local Emergency and Also Declaring a Disaster Due to Novel Coronavirus (COVID-19)
- Attachment 3— March 24, 2020 Uncodified Emergency Ordinance of the Council of the City of Staunton Reratifying and Reaffirming the Declaration of a Local Emergency and Disaster Due to Novel Coronavirus; Implementing Emergency Procedures to Ensure Continuity of Government; Ratifying and Affirming the City Manager's Authority and Exercise of Authority and Discretion in Taking Actions in the Best Interest of the City; and Authorizing the City Manager to Take Actions to Implement the Provisions of this Ordinance
- Attachment 4— September 24, 2020 Uncodified Emergency Ordinance Ratifying, Confirming and Affirming Uncodified Emergency Ordinance 2020-04
- Attachment 5— January 14, 2021 Uncodified Emergency Ordinance Reratifying, Reconfirming and Reaffirming Uncodified Emergency Ordinance 2020-04 and Extending Time of Reenactment
- Attachment 6— Draft Uncodified Emergency Ordinance Regarding Additional Conditions for Use of Electronic Communications in Meetings of City Public Bodies

City Manager's Recommendation: Consider adoption of the draft ordinance, as presented.

Suggested Motion: I move to adopt the draft uncodified emergency ordinance regarding additional conditions for use of electronic communications in meetings of City public bodies.

City Manager: Steven L. Rosenberg

**DECLARATION OF LOCAL EMERGENCY
BY THE CITY OF STAUNTON
LOCAL DIRECTOR OF EMERGENCY MANAGEMENT**

WHEREAS, on January 30, 2020, the World Health Organization (WHO) declared novel coronavirus a public health emergency of international concern;

WHEREAS, on March 11, 2020, the WHO characterized COVID-19 as a pandemic;

WHEREAS, on March 12, 2020, the Governor of Virginia declared a state of emergency, to prepare and coordinate Virginia's response to the potential spread of COVID-19;

WHEREAS, on March 13, 2020, the President of the United States issued a proclamation declaring a national emergency concerning the novel coronavirus (COVID-19) outbreak;

WHEREAS, exigent circumstances exist;

WHEREAS, the occurrence and/or threat of COVID-19 virus will or may result in substantial injury or harm to the population and/or substantial damage to or loss of property and/or natural resources, all as broadly construed, and may involve governmental action beyond that authorized or contemplated by existing law because governmental inaction for the period required to amend the law to meet the exigency would work immediate and irrevocable harm upon the citizens or the environment of the Commonwealth or some clearly defined portion or portions thereof, such as the City of Staunton, including but not limited to injury and/or harm to the public health or safety of persons in the City of Staunton, the fiscal, financial, and/or budgetary interests of the City of Staunton, and of the City of Staunton's constituents or of affiliated or associated personnel of other public bodies of the City of Staunton, public services in the City of Staunton, and operational and decision-making functions in the City of Staunton, all constituting an emergency under the application of the provisions of Virginia Code § 44-146.16;

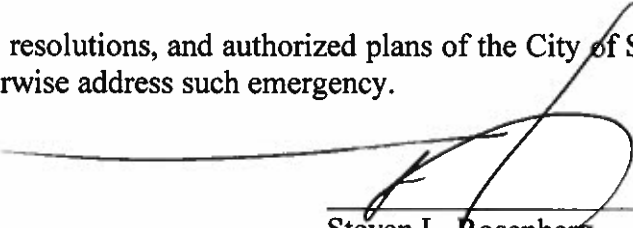
WHEREAS, such conditions and considerations necessitate the declaration of the existence of a local emergency, to the fullest extent permitted by law; and

WHEREAS, these recitals are an integral part of this declaration.

NOW, THEREFORE, pursuant to Virginia Code § 44-146.21, subject to confirmation by the Council at its next regularly scheduled meeting or at a special meeting within fourteen (14) days of this declaration, whichever occurs first, Steven L. Rosenberg, City Manager and Emergency Management Director for the City of Staunton, Virginia, **DECLARES** the existence of a **LOCAL EMERGENCY** in the City of Staunton, to the fullest extent permitted by law; and

IT IS FURTHER DECLARED AND ORDERED that, to the fullest extent permitted by law, during the existence of such emergency the powers, functions, and duties of the Local Emergency Management Director and local emergency services planning organization or committee and City of Staunton staff and others shall be those prescribed by state and other law

and the ordinances, resolutions, and authorized plans of the City of Staunton in order to mitigate the effects and otherwise address such emergency.



Steven L. Rosenberg,
City Manager and
Emergency Management Director

Date: March 16, 2020

Time: 1:30 p.m.

Attest: 
Suzanne F. Simmons, Clerk of Council

**RESOLUTION
OF THE
COUNCIL OF THE CITY OF STAUNTON, VIRGINIA
CONSENTING TO AND CONFIRMING DECLARATION OF A LOCAL
EMERGENCY AND ALSO DECLARING A DISASTER DUE TO NOVEL
CORONAVIRUS (COVID-19)**

Recitals

- A. Virginia Code § 44-146.21 authorizes the declaration of a local emergency;
- B. Section 11 of the Charter of the City of Staunton also grants broad powers to City Council;
- C. Steven L. Rosenberg, the City Manager and Director of Emergency Management of the City of Staunton, Virginia, declared a local emergency as provided in the March 16, 2020, declaration issued and attached and incorporated by reference; and
- D. These recitals are an integral part of this resolution.

NOW, THEREFORE, BE IT RESOLVED, pursuant to Virginia Code § 44-146.21 and such other applicable laws, including but not limited to the powers granted by the Charter of the City of Staunton, Virginia, that the Council of the City of Staunton, Virginia, **CONSENTS** to and **CONFIRMS** the March 16, 2020 declaration of a local emergency throughout the City of Staunton, Virginia; and

BE IT FURTHER RESOLVED, pursuant to Virginia Code § 44-146.16 and such other applicable laws, that the Council of the City of Staunton, Virginia, **DECLARES** the anticipated effects of COVID-19, a communicable disease of public health threat, constitute a disaster; and

BE IT FURTHER CONFIRMED, RESOLVED, DECLARED AND ORDERED that during the existence of such emergency and disaster, the powers, functions, and duties of the Local Emergency Management Director and local emergency services planning organization or committee and City staff shall be those prescribed by Virginia law and the ordinances, resolutions, and approved plans of the City of Staunton in order to mitigate and otherwise address the effects of such emergency and disaster; and

BE IT FURTHER RESOLVED that Council **CONSENTS** to and **RATIFIES** and **AFFIRMS** that all City officials are granted such authority, pursuant to extant law, in such circumstances to take all actions, to the fullest extent permitted by law, to prevent or alleviate the damage, loss, hardship or suffering threatened or caused or being caused by such local emergency and disaster.



Carolyn W. Dull, Mayor

Attest: Suzanne F. Simmons
Suzanne F. Simmons, Clerk of Council

Ordinance No. 2020-04

**AN UNCODIFIED EMERGENCY ORDINANCE RERATIFYING AND
REAFFIRMING THE DECLARATION OF A LOCAL EMERGENCY AND
DISASTER DUE TO NOVEL CORONAVIRUS; IMPLEMENTING
EMERGENCY PROCEDURES TO ENSURE CONTINUITY OF
GOVERNMENT; RATIFYING AND AFFIRMING THE CITY MANAGER'S
AUTHORITY AND EXERCISE OF AUTHORITY AND DISCRETION IN
TAKING ACTIONS IN THE BEST INTEREST OF THE CITY; AND
AUTHORIZING THE CITY MANAGER TO TAKE ACTIONS TO IMPLEMENT
THE PROVISIONS OF THIS ORDINANCE**

Recitals

A. On January 30, 2020, the World Health Organization (WHO) declared novel coronavirus (COVID-19) a public health emergency of international concern and on March 11, 2020, the WHO characterized COVID-19 as a pandemic;

B. On March 12, 2020, the Governor of Virginia declared a state of emergency, to prepare and coordinate Virginia's response to the potential spread of COVID-19;

C. On March 13, 2020, the President of the United States issued a proclamation declaring a national emergency concerning the COVID-19 outbreak;

D. On March 16, 2020, the City Manager and Emergency Management Director, Steven L. Rosenberg, declared a local emergency concerning COVID-19 and its effects;

E. At its special-emergency meeting on March 18, 2020, by resolution, the Staunton City Council confirmed Mr. Rosenberg's Declaration of a Local Emergency and declared a disaster related to COVID-19;

F. On March 23, 2020, the Governor of Virginia issued an executive order that, in essence, further recognizes the emergency and disaster COVID-19 outbreak, closing the public schools for the entire remainder of the school year and closing recreational and other non-essential establishments.

G. § 15.2-1413 of the Code of Virginia authorizes any locality to, by ordinance, provide a method to assure continuity in its government in the event of a disaster;

H. City Council also continues to recognize, confirm, affirm, and find that emergency and disaster conditions and effects existed and continue to exist and the occurrence and/or threat of COVID-19 merited and continues to merit and even

necessitates action by City Council to provide for methods to help assure continuity in local government as to the City and its related public bodies and officials;

- I. This matter has been properly heard and considered; and
- J. These recitals are deemed an integral part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia, (Council) to the fullest extent permitted by law under these extraordinary, even unprecedented circumstances, that:

1. It **RERATIFIES AND REAFFIRMS** the Declaration of a Local Emergency and disaster due to COVID-19 made on March 16, 2020 by the City Manager and Emergency Management Director, Steven L. Rosenberg, ratified at its special-emergency meeting held on March 18, 2020, making its own declaration of an emergency and disaster, effective retroactively to and including March 16, 2020;

2. It **ACKNOWLEDGES, CONFIRMS, AND AFFIRMS** that the Declaration of Local Emergency empowers the Director of Emergency Management to have and exercise special authority and duties, such as authority and duties as may be defined by the laws, rules, regulations and plans of the United States of America, the Commonwealth of Virginia and the City of Staunton, Virginia, including but not limited to those under § 44-146.21 of the Code of Virginia;

3. It **ACKNOWLEDGES, CONFIRMS, AND AFFIRMS** that when, in the judgment of Council, all needed emergency actions have been taken, appropriate action by the Director of Emergency Management or by Council to end the declared local emergency and disaster will be taken, with public notice of such action given;

4. The nature of COVID-19 and its actual and potential catastrophic effects, as may be discerned upon continuing review, make it unsafe to necessarily assemble always a quorum of Council, other City public bodies, and officials in a single location, or to assemble members of the public in a single location, making it impracticable or unsafe as circumstances may exist at the time for Council and the City's other public bodies and officials to conduct meetings in accordance with normal practices and procedures. In accordance with the provisions of § 15.2-1413 of the Code of Virginia, notwithstanding any contrary provision of law, general or special, including but not limited to the City's Charter or the City Code, the following emergency procedures are **AUTHORIZED AND ADOPTED** to ensure **CONTINUITY OF GOVERNMENT** during the pendency of the emergency and disaster created or occasioned by COVID-19 or by its actual or potential effects, including but not limited to its effects as to Staunton citizens, other persons, commerce, businesses, and City-related functions, officers, personnel, employees, and City FY20 and FY21 fiscal and financial matters, processes, decision-making, and planning at all levels of City government and for City public bodies and officials;

4.1. Any process, procedure, or matter which requires the physical presence of the public in or about a City-owned or controlled building, facility, or property that the City Manager has declared or designated or may in the future declare or designate, by whatever means whether formal or informal or written or electronic or verbal, to be closed to the public is hereby **SUSPENDED**;

4.2 Meetings of the Council and other City public bodies, including but not limited to the School Board and those for which operations are jointly or cooperatively governed or managed, are **AUTHORIZED** and may be held through electronic communication means without a quorum of members physically present in a single location, provided that notice of such meetings is still given in accordance with applicable laws;

4.3 Such meetings are **AUTHORIZED** to be and may be held without permitting members of the public to be physically present in a central location or in the same physical location as any of the Council or other City public bodies and members and officials so long as alternative arrangements for public access to such meetings are made as may be appropriate under the circumstances. Such alternative public access may be electronic, including but not limited to audio, telephonic, video or internet-web broadcast or stream, a City social media platform, or any other similar means;

4.4 For any matter requiring a public hearing by law, it is **DIRECTED** that public comment will, at least, be solicited and received via written or electronic means, including email or social media, or audio or voice message prior to the vote on such matter. Public comments may also be solicited and, if so solicited, then received via electronic and/or other means, including through the City's or other City public body's social media platform, or during the actual public hearing if possible and practicable, as determined in the discretion of the City Manager or Mayor. All such comments will be provided to or their essence or themes, if any, summarized to the members of the public body and made a part of the record of such meeting;

5. The provisions of Section 4 of this ordinance **SHALL BE IN EFFECT**, until repealed by Council, for a period not exceeding six months or, as may be permitted by law then in effect for such longer period from the effective date of declaration of local emergency, to and including March 16, 2020. Upon repeal or expiration of the provisions of Section 4 of this ordinance, the matters referenced therein shall resume operation in accordance with the normal practices and procedures, with the Director of Emergency Management to give public notice of such;

6. The actions of the City Manager taken or communicated by whatever means beginning March 16, 2020 and continuing, in the best interest of the City as determined in the exercise of discretion by the City Manager, are **RATIFIED AND AFFIRMED**;

7. If and to the extent that applicable law is enacted to extend the authority or time permitted for the operation of this or a similar ordinance, this ordinance shall be **AUTOMATICALLY AMENDED EFFECTIVE THEN IMMEDIATELY** to incorporate such changes without further action of Council; and

8. The City Manager is **AUTHORIZED** to take all reasonable and necessary actions, as determined in the City Manager's exercise of discretion, to implement fully the provisions of this ordinance.

9. The Clerk of Council is **DIRECTED** to have posted a copy of this ordinance at the usual places and on the City's website.

10. To the extent that any provision of this ordinance is found or determined to be invalid or void, the other provisions of this ordinance shall remain in effect without further action of this Council.

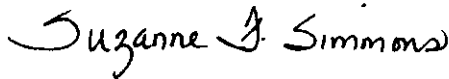
Adopted: March 24, 2020

Effective Date: March 16, 2020

Expiration Date: As provided



Carolyn W. Dull, Mayor



ATTEST:

Suzanne F. Simmons, Clerk of Council

Ordinance No. 2020 - 24

**AN UNCODIFIED EMERGENCY ORDINANCE
RATIFYING, CONFIRMING AND AFFIRMING
UNCODIFIED EMERGENCY ORDINANCE 2020-04**

Recitals

A. On January 30, 2020, the World Health Organization (WHO) declared novel coronavirus (COVID-19) a public health emergency of international concern and on March 11, 2020, the WHO characterized COVID-19 as a pandemic;

B. On March 12, 2020, the Governor of Virginia declared a state of emergency, to prepare and coordinate Virginia's response to the potential spread of COVID-19;

C. On March 13, 2020, the President of the United States issued a proclamation declaring a national emergency concerning the COVID-19 outbreak;

D. On March 16, 2020, the City Manager and Emergency Management Director, Steven L. Rosenberg, declared a local emergency concerning COVID-19 and its effects;

E. At its special-emergency meeting on March 18, 2020, by resolution, the Staunton City Council confirmed Mr. Rosenberg's Declaration of a Local Emergency and declared a disaster related to COVID-19;

F. On March 23, 2020, the Governor of Virginia issued an executive order that, in essence, further recognizes the emergency and disaster COVID-19 outbreak, closing the public schools for the entire remainder of the school year and closing recreational and other non-essential establishments;

G. The Governor of Virginia has issued further executive orders that reflect the existence of a continuing emergency and disaster related to COVID-19;

H. The U.S. Centers for Disease Control and Prevention reports that since January 21, 2020, there have been over 6,500,000 COVID-19 cases in the United States, with the number of deaths continuing to increase.

I. § 15.2-1413 of the Code of Virginia authorizes any locality to, by ordinance, provide a method to assure continuity in its government in the event of a disaster;

J. On March 24, 2020, City Council adopted uncodified emergency Ordinance 2020-04 (the "Emergency Ordinance"), reratifying and reaffirming the declaration of a local emergency and disaster due to novel coronavirus; implementing

emergency procedures to ensure continuity of government; ratifying and affirming the city manager's authority and exercise of authority and discretion in taking actions in the best interest of the City; and authorizing the city manager to take actions to implement the provisions of the ordinance;

K. City Council continues to recognize, confirm, affirm, and find that emergency and disaster conditions and effects existed and continue to exist and the occurrence and/or threat of COVID-19 continues to merit and even necessitates action by City Council to provide for methods to help assure sustained continuity in local government as to the City and its related public bodies, officials and others, and proceedings;

K. This matter has been properly heard and considered; and

L. These recitals are deemed an integral part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia (Council), to the fullest extent permitted by law under these continuing extraordinary, even unprecedented circumstances, that:

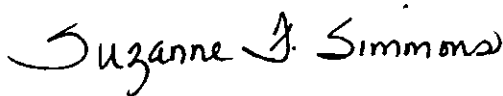
1. All actions of Council in the Emergency Ordinance and the provisions of such ordinance are **RATIFIED, CONFIRMED AND AFFIRMED**, including without limitation, the **CONTINUITY OF GOVERNMENT** provisions of such ordinance, which are expressly reenacted until January 15, 2021, in accordance with, and subject to, § 15.2-1413 of the Code of Virginia; and

2. The Clerk of Council is **DIRECTED** to have posted a copy of this ordinance at the usual places and on the City's website and public places and to provide a copy to the Chair of each City-related public body, including but not limited to the School Board, the Economic Development Authority, the Planning Commission, and the Historic Preservation Commission.

Adopted: September 24, 2020
Effective Date: September 24, 2020
Expiration Date: As provided



Andrea W. Oakes, Mayor



ATTEST: _____
Suzanne F. Simmons, Clerk of Council

Ordinance No. 2021 – 04

**AN UNCODIFIED EMERGENCY ORDINANCE
RERATIFYING, RECONFIRMING AND REAFFIRMING
UNCODIFIED EMERGENCY ORDINANCE 2020-04
AND
EXTENDING THE TIME OF REENACTMENT**

Recitals

A. On January 30, 2020, the World Health Organization (WHO) declared novel coronavirus (COVID-19) a public health emergency of international concern and on March 11, 2020, the WHO characterized COVID-19 as a pandemic;

B. On March 12, 2020, the Governor of Virginia declared a state of emergency, to prepare and coordinate Virginia's response to the potential spread of COVID-19;

C. On March 13, 2020, the President of the United States issued a proclamation declaring a national emergency concerning the COVID-19 outbreak;

D. On March 16, 2020, the City Manager and Emergency Management Director, Steven L. Rosenberg, declared a local emergency concerning COVID-19 and its effects;

E. At its special-emergency meeting on March 18, 2020, by resolution, the Staunton City Council confirmed Mr. Rosenberg's Declaration of a Local Emergency and declared a disaster related to COVID-19;

F. On March 23, 2020, the Governor of Virginia issued an executive order that, in essence, further recognizes the emergency and disaster COVID-19 outbreak, closing the public schools for the entire remainder of the school year and closing recreational and other non-essential establishments;

G. The Governor of Virginia has issued further executive orders that reflect the existence of a continuing emergency and disaster related to COVID-19;

H. The U.S. Centers for Disease Control and Prevention reports that since January 21, 2020, there have been over 15,000,000 COVID-19 cases in the United States, with the number of deaths continuing to increase;

I. The Central Shenandoah Health District has reported a sharp increase in COVID-19 cases locally, with an increase from an average prior to Thanksgiving of 700-800 cases per week to an average in mid-December of 2,000 cases per week, and a correlated increase in local hospitalizations;

J. Outbreaks of COVID-19 cases are occurring in both community and congregant settings, with an additional peak expected beginning in January due to travel and gatherings during the holiday season;

K. The increase in cases subsequent to Thanksgiving resulted in the implementation of new measures by the Governor and advice by public health professionals to continue mitigation measures (e.g., face coverings, distancing and hand washing);

L. Though in December the state embarked on the delivery of vaccinations, because it is estimated that 70% participation will be required to develop herd immunity and it is unclear whether the vaccination will protect from transmission, those vaccinated are encouraged to continue to observe mitigation measures;

M. § 15.2-1413 of the Code of Virginia authorizes any locality to, by ordinance, provide a method to assure continuity in its government in the event of a disaster;

N. On March 24, 2020, City Council adopted uncodified emergency Ordinance 2020-04 (the “Emergency Ordinance”), reratifying and reaffirming the declaration of a local emergency and disaster due to novel coronavirus; implementing emergency procedures to ensure continuity of government; ratifying and affirming the city manager’s authority and exercise of authority and discretion in taking actions in the best interest of the City; and authorizing the city manager to take actions to implement the provisions of the ordinance;

O. On September 24, 2020, City Council adopted uncodified emergency Ordinance 2020-24, ratifying, confirming and affirming uncodified emergency Ordinance 2020-04 and reenacted the continuity of government provisions of such ordinance until January 15, 2021;

P. The Health Director of the Central Shenandoah Health District has communicated to the City Manager her endorsement, given current and expected conditions, of the continuation of authority to conduct electronic communications meetings until the middle of calendar year 2021;

Q. City Council continues to recognize, confirm, affirm, and find that emergency and disaster conditions and effects existed and continue to exist and the occurrence and/or threat of COVID-19 continues to merit and even necessitates action by City Council to provide for methods to help assure sustained continuity in local government as to the City and its related public bodies, officials and others, and proceedings;

R. This matter has been properly heard and considered; and

S. These recitals are deemed an integral part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia (Council), to the fullest extent permitted by law under these continuing extraordinary, even unprecedented circumstances, that:

1. All actions of Council in the Emergency Ordinance and the provisions of such ordinance are **RATIFIED, RECONFIRMED AND REAFFIRMED**, including without limitation, the **CONTINUITY OF GOVERNMENT** provisions of such ordinance, which are expressly reenacted until April 9, 2021, in accordance with, and subject to, § 15.2-1413 of the Code of Virginia; and

2. The Clerk of Council is **DIRECTED** to have posted a copy of this ordinance at the usual places and on the City's website and public places and to provide a copy to the Chair of each City-related public body, including but not limited to the School Board, the Economic Development Authority, the Planning Commission, and the Historic Preservation Commission.

Adopted: January 14, 2021
Effective Date: January 14, 2021
Expiration Date: As provided



Andrea W. Oakes, Mayor



ATTEST:

Suzanne F. Simmons, Clerk of Council

Ordinance No. 2021 - ____

**AN UNCODIFIED EMERGENCY ORDINANCE
REGARDING ADDITIONAL CONDITIONS FOR USE OF ELECTRONIC
COMMUNICATIONS IN MEETINGS OF CITY PUBLIC BODIES**

Recitals

A. Staunton City Council has adopted a series of ordinances to ensure the continuity of government related to the COVID-19 pandemic, including: Ordinance 2020-04; Ordinance 2020-24; and Ordinance 2021-____;

B. At its January 14, 2021 regular meeting, City Council engaged in a discussion about possibly requiring public body member use of any available video feature in any meeting held using an electronic communications platform as well as about the possible remote attendance of City Council members who desire to observe meetings of City Council's Nominations Committee both in open and closed meetings;

C. City Council believes that it is consistent with transparency and accountability in the use of electronic communications for meetings of City public bodies, including City Council, to include additional conditions that relate to a City public body member's utilization of available video features of any electronic communications platform, especially during a closed meeting so that there is added assurance no other person is remotely accessing the closed meeting;

D. City Council also believes it is consistent with transparency and accountability to allow a Council member who is not a member of the Nominations Committee, to observe such committee meetings, including closed meetings of the Nominations Committee;

E. This matter has been properly heard and considered; and

F. These recitals are deemed an integral part of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Staunton, Virginia (Council), to the fullest extent permitted by law under these circumstances, that:

1. As an additional condition of a City public body's use of any electronic communications platform that includes available video features, all members of such public body, including City Council members during City Council meetings, shall at all times activate and keep activated the available video feature of any electronic communications platform, such as Zoom, so that the public body member is seen at all times during the public body's meetings except during recesses of the public body and brief, intermittent periods due to unanticipated technical difficulties or unexpected other circumstances; and if such conditions are not honored by a public body member, the presiding officer shall

caution the member twice during any meeting and, absent compliance in yet a third instance of non-compliance, shall direct that the meeting continue without the presence of the non-compliant member;

2. Council members who are not members of the Council's Nominations Committee may observe Nominations Committee meetings, including closed meetings, using an electronic communications platform, and the Nominations Committee will facilitate such observation by a Council member using an electronic communications platform, with support to the extent necessary from City staff and the Clerk of Council; and

3. The Clerk of Council is **DIRECTED** to provide a copy of this ordinance to each member of City Council and have posted a copy of this ordinance at the usual public places and on the City's website and to provide a copy to the Chair of each City public body, including but not limited to the School Board, the Economic Development Authority, the Planning Commission, and the Historic Preservation Commission.

Adopted:

Effective Date:

Expiration Date: As provided

Andrea W. Oakes, Mayor

ATTEST: _____
Suzanne F. Simmons, Clerk of Council

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 28, 2021	City Council
Item #		
Ordinance #		
Department:	City Council	
Council Vision:	Responsive, Efficient Government	
Subject:	Closed Meeting for Discussion of Prospective Candidates for Interim City Attorney	

Suggested Motion: I move that Council enter a closed meeting for discussion of specific prospective candidates for employment or appointment as possible interim city attorney, pursuant to Virginia Code Section 2.2-3711(A)(1).

Second. Discussion. Vote – Clerk of Council to poll members of Council.

After the closed meeting: I move that Council reconvene in an open meeting and certify to the best of each member's knowledge that only lawfully exempted public business matters were discussed and that only public business matters as identified in the closed meeting motion were heard, discussed or considered in the meeting.

Second. Discussion. Vote – Clerk of Council to poll members of Council.

CITY COUNCIL



AGENDA BRIEFING

Staunton, VA

Meeting Date:	January 28, 2021	City Council
Item #		
Ordinance #		
Department:	City Council	
Council Vision:	Responsive, Efficient Government	
Subject:	Appointment of Interim City Attorney	

Background: At its meeting on January 14, 2021, City Council appointed John Blair to serve as City Attorney, commencing March 15, 2021. With the impending retirement of its current City Attorney, Council deemed it necessary to appoint an interim City Attorney, to provide legal services to the City for the period commencing February 1, 2021, and continuing through March 14, 2021. Council reviewed applicants and conducted interviews, and engaged in review and discussion in closed meetings.

Suggested Motion: I move that (i) City Council hereby appoint the following individual as the interim City Attorney of the City of Staunton, for the period commencing February 1, 2021, and continuing through March 14, 2021, and that the Mayor be authorized to execute an engagement letter setting forth the terms on which legal services will be provided to the City, and (ii) the permanent City Attorney be authorized to extend the engagement of the interim City Attorney beyond March 14, 2021, on any matter pending as of that date, consistent the City Attorney's authority under the City Code to have the management, charge and control of all law business of the city.

Second. Discussion. Vote – Clerk of Council to poll members of Council.