



AGENDA
REGULAR MEETING OF TOWN COUNCIL
CHRISTIANSBURG TOWN HALL
100 EAST MAIN STREET
APRIL 24, 2018 – 7:00 P.M.

REGULAR MEETING

I. CALL TO ORDER

- A. Moment of Reflection
- B. Pledge of Allegiance

II. ADJUSTMENT OF THE AGENDA

III. PUBLIC HEARINGS

- A. Proposed closure of Hickok Street to vehicular traffic from West Main Street to Commerce Street NW.
- B. Conditional Use Permit request by Roger Woody for an approximately 2.209-acre portion of tax map no. 528 A 83 located at 1145 Roanoke Street to construct seven (7) single-family dwellings in the B-3, General Business zoning district. The property is designated as Residential on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.
- C. Agreement to amend Montgomery Regional Solid Waste Authority Articles of Incorporation.

IV. CONSENT AGENDA

- A. Council meeting minutes of April 3, 2018, April 10, 2018, and April 18, 2018.
- B. Monthly Bills.
- C. Adoption of Amended Town Procurement and Surplus Property Manual.
- D. Schedule Public Hearing on June 12, 2018 for a rezoning request by Guy Matthew and Wendy W. Funk at 1800 Depot Street N.E. (Tax Map Nos. 498-A 90 and 498-A 90A) in the B-3, General Business zoning district to R-1, Single Family Residential zoning district. The property is designated as Residential on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.

V. CITIZEN COMMENTS

VI. INTRODUCTIONS AND PRESENTATIONS

A. Introduction of New Employees:

1. Jim Lancianese, Grant Hoover, Justin Shepherd, Casper Violette, Public Works Department
 - Tanya Lilly, Administrative Specialist I
 - William Starkey II, Maintenance Worker, Storm Water
 - Daniel Simpkins, Truck Driver, Street Traffic Control
 - Lucas Kerns, Technician Trainee
2. Jerry Heinline, Building Official
 - Joey Penca, Jr., Building Inspector

B. Christiansburg High School - Town Council Partnership.

C. Rescue Chief Joe Coyle to present on Rescue Squad operations and activities.

VII. COMMITTEE REPORTS

A. Councilmen Collins and Stipes - Street Committee report/recommendation on:

1. Subdivision Plat Showing New Lots 1 & 2 From a Portion of Tax Map Number 406-A-19 located near the Shoppers Way NW and North Franklin Street intersection.

VIII. DISCUSSION AND ACTION BY MAYOR AND COUNCIL

A. Council action on:

1. Ordinance to amend Chapter 24 “Nuisances” of the Christiansburg Town Code in regards to Article II – Regulation of Noise. The Public Hearing was held April 10, 2018.
2. Ordinance to amend Chapter 42 “Zoning” of the Christiansburg Town Code in regards to permitting a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Chapter 24 “Nuisances” Article II – Regulation of Noise by Conditional Use Permit in the A, MU-1, MU-2, B-1, B-2, B-3, I-1, and I-2 zoning districts. The Public Hearing was held April 10, 2018.

B. [Agreement to amend Montgomery Regional Solid Waste Authority Articles of Incorporation.](#)

C. [Resolution Authorizing Participation in the Virginia Department of Housing and Community Development \(DHCD\) Commercial District Affiliate Program.](#)

D. Consideration of attendance payment for New River Valley Regional Commission Dinner. (Showalter)

E. Consideration of \$2,500 funding for the Blacksburg Children’s Museum. (Huppert)

IX. STAFF REPORTS

A. Town Manager

B. Town Attorney

C. Other Staff

X. COUNCIL REPORTS

XI. OTHER BUSINESS

XII. ADJOURNMENT

Upcoming meetings of Council:

May 8, 7:00 P.M. – Regular Meeting

May 22, 7:00 P.M. – Regular Meeting



**TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET**

AGENDA LOCATION:
PUBLIC HEARING

Meeting Date:
April 24, 2018

ITEM TITLE:
Public Hearing for a street closure of a portion of Hickok Street NW to vehicular access and thru-traffic.

DESCRIPTION:

The Town is proposing to close a 285 linear foot portion of Hickok Street NW to vehicular access and thru-traffic from West Main Street to Commerce Street NW. This portion of the street will remain open to pedestrian and bicycle traffic as a public right-of-way. The area will be used for the Farmers' Market as well as for the possible location of future Town-sponsored and Town-sanctioned events and activities. To physically close the road, street bollards would be installed across Hickok Street at the West Main Street and Commerce Street NW intersections. There are two driveways from private properties that connect to this part of Hickok Street that would not be accessible as long as the street is closed. Both properties have means of ingress/egress from other locations on site. We have spoken to both property owners—the Christiansburg Presbyterian Church (west side) and Ray and Jared Alcorn (east side). Both groups are generally supportive of the project and efforts downtown, but there are reservations of how the closure will affect traffic circulation on the church property and the use of Hickok Street on days that are not being programmed. There is approximately space for 16 on-street parking spaces (10 marked and 6 unmarked) in this portion of Hickok Street. On-street parking remains on the rest of Hickok Street, West Main Street, and College Street NW.

POTENTIAL ACTION:
Hold Public Hearing

DEPARTMENT(S):
Town Manager's Office/Planning Department

PRESENTER:
Randy Wingfield, Town Manager
Andrew Warren, Planning Director

Information Provided:
Draft Ordinance
<https://christiansburg.box.com/s/e5ilu6pux07azp6sgowavxibw4ic2mtq>

Hickok Street Conceptual Drawing
<https://christiansburg.box.com/s/w53usj3xokbqz7nv0x5u8qklkymdkc7w>



**TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET**

AGENDA LOCATION:

PUBLIC HEARING

Meeting Date:

April 24, 2018

ITEM TITLE:

Public Hearing for a Conditional Use Permit request by Roger Woody for a single-family residential development at 1145 Roanoke Street in the B-3, General Business District (CUP 2018-02).

DESCRIPTION:

The Applicant requests a Conditional Use Permit (CUP) to construct seven (7) single-family dwellings on an approximately 2.412 acre portion of tax map no. 528 – (A) – 83 located at 1145 Roanoke Street in the B-3, General Business District. The property is designated as Residential on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.

Planning Commission held its public hearing on April 2, 2018. At its April 16, 2018 meeting, the Planning Commission recommended approval by a vote of 8-0 with five conditions:

1. The property shall only be used for single-family dwellings and uses appurtenant to the principal single-family dwelling use, as provided in the R-3, Multi-Family Zoning District of the Christiansburg Town Code.
2. The property shall be developed in general conformance with the Conditional Use Permit Layout Plan submitted by LMW, P.C.
3. There shall be a maximum of seven (7) single-family dwellings permitted and the subject property shall be subdivided in accordance with Chapter 40, "Subdivisions" of the *Christiansburg Town Code*.
4. Storage of construction material and equipment shall not occur on adjacent property or public rights-of-way.
5. Construction traffic transporting earthwork and other debris shall only access the site directly from Roanoke Street, per an approved construction entrance.

POTENTIAL ACTION:

Hold Public Hearing

DEPARTMENT(S):

Planning Department

PRESENTER:

Andrew Warren, Planning Director

Information Provided:

Planning Commission Resolution

<https://christiansburg.box.com/s/pvbd0txbxx8xbkal2v9hr6cxqt4dnbeb>

Planning Commission Minutes – April 2, 2018 & April 16, 2018 (Draft)

<https://christiansburg.box.com/s/f2zp2ztlg3ldz917ae9oflefqcdmy1pk>

<https://christiansburg.box.com/s/sawh1gnvpkqzqbsyeghww812ipkq12h>

Staff Report with CUP application and maps

<https://christiansburg.box.com/s/3orbg19u8rucnwyh50f6oi8wuu23mgy1>

**CHRISTIANSBURG TOWN COUNCIL
CHRISTIANSBURG, MONTGOMERY CO., VA.
WORK SESSION MINUTES
APRIL 3, 2018 – 5:30 P.M.**

A WORK SESSION OF THE CHRISTIANSBURG TOWN COUNCIL, MONTGOMERY COUNTY, CHRISTIANSBURG, VA. WAS HELD AT CHRISTIANSBURG TOWN HALL, 100 EAST MAIN STREET, CHRISTIANSBURG, VIRGINIA, ON APRIL 3, 2018 AT 5:30 P.M.

COUNCIL MEMBERS PRESENT: Mayor D. Michael Barber; Vice-Mayor Bradford J. Stipes; Samuel M. Bishop; Harry Collins; Steve Huppert; Merissa Sachs; Henry Showalter. ABSENT: None.

ADMINISTRATION PRESENT: Town Manager Randy Wingfield; Clerk of Council Michele Stipes; Director of Public Relations Melissa Demmitt; Planning Director Andrew Warren; Finance Director Valerie Tweedie; Engineering Director Wayne Nelson; Public Works Director Jim Lancianese; Assistant to the Town Manager Adam Carpenetti; Public Works Superintendent of Streets Travis Moles.

WORK SESSION

I. Call to Order by Mayor Barber

II. Discussions by Mayor and Council Members

A. Discussion of the FY 2018-2019 budget.

Finance Director Val Tweedie referred to the proposed draft budget dated March 26, 2018, provided to Council on April 3, and presented a detailed overview of the information contained in the budget. Highlights of Council discussion are as follows:

- Council expressed support for the proposed portable skating rink that would be available for downtown events. Town Manager Wingfield noted that a public meeting would be held with adjoining property owners including Christiansburg Presbyterian Church being notified to discuss future plans for Hickok Street.
- The 2018 projection that support for the cemetery would exceed \$200,000 due to mowing and maintenance, with revenue generated only through burials. Sale of lots goes into perpetual care fund.
- The process for reviewing and approving community contribution applications. Council agreed to increase the contribution amounts for Montgomery-Floyd Regional Library to \$15,000, and for Montgomery Museum to \$18,000. Councilman Bishop expressed strong support for including the Christiansburg Community Center in the budget, and voiced concerns that there may be double standards when dealing with various community organizations. He cautioned Council to be fair in its approval process of the applications. Councilman Showalter expressed support for including Christiansburg Institute in the budget. Finance Director Tweedie reviewed the parameters of the application, which includes the necessity of matching funds for Town contribution

amounts. Council agreed to list cultural funding and community grant funding as separate line items in future budgets.

- The application process for community contributions. Council agreed that the application deadline must be firm for all requests, regardless of circumstance, and further agreed to cut from the FY 2019 budget support to all applicants who submitted past the deadline.
- The Boys and Girls Club is now active in Christiansburg.
- Installation of traffic signal lights at Tower Road (funded and in budget); Quin Stuart Boulevard (under construction); Roanoke Street at Food Lion.
- Consideration of reducing the cigarette tax. Council agreed that Remon Yassa presented valid points in his request on March 27 to reduce or eliminate Town cigarette tax. Mrs. Tweedie reported that if the Town cut its cigarette tax by ½ effective January 1, it would lose \$110,000 in annual revenue. Councilwoman Sachs commented that every detail matters when dealing with the success of small businesses and a reduction in cigarette tax would help level the playing field for Christiansburg's convenience stores and gas stations. Council talked about the necessity of taxes to generate revenue to continue the Town's service-based operations, and Mayor Barber noted that some taxes, such as meals tax and cigarette tax, were elective in nature. Councilman Showalter commented that a reduction in taxes could necessitate adjustments to the wants and needs of the community. Council agreed to assign Councilman Bishop to work with town staff to study the matter for consideration in the FY 2020 budget.
- Adding council members to the Town's health insurance policy. Life insurance would also be offered at full cost to the individual.
- Council agreed that the salary range of the assistant town manager that had been advertised, with the only bottom tier to market rate, advertised, made the position look like the salary was too low and authorized the town manager to advertise a wider pay range and hire as appropriate based on experience.
- Council stated verbal support for the budget, with the noted changes to community contributions, and directed that the budget was ready to be advertised.

III. Closed Meeting

- A. Councilman Stipes made a motion to enter into a Closed meeting in accordance with Virginia Code Section 2.2-3711(A)(1), for the discussion, consideration, or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body. Councilman Bishop seconded the motion and Council voted as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Aye; Showalter – Aye; Stipes – Aye. The Closed Meeting was in reference to the Director of Finance.
- B. Reconvene in Open Meeting.
- C. Certification. Councilman Stipes moved to certify that the Town Council of the Town of Christiansburg, meeting in Closed Meeting, to the best of each member's knowledge, discussed only the matters lawfully exempt from open meeting requirements by Virginia Law and only such matters as are identified in the Resolution to enter into Closed Meeting. The

motion was seconded by Councilman Collins and Council voted as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Aye; Showalter – Aye; Stipes - Aye.

D. Council action on the matter. No action was taken by Council.

IV. Adjourn

There being no further business to bring before Council, Mayor Barber adjourned the meeting at 7:20 P.M.

Michele Stipes, Clerk of Council

D. Michael Barber, Mayor

**CHRISTIANSBURG TOWN COUNCIL
CHRISTIANSBURG, MONTGOMERY CO., VA.
REGULAR MEETING MINUTES
APRIL 10, 2018 – 7:00 P.M.**

A REGULAR MEETING OF THE CHRISTIANSBURG TOWN COUNCIL, MONTGOMERY COUNTY, CHRISTIANSBURG, VA. WAS HELD AT CHRISTIANSBURG TOWN HALL, 100 EAST MAIN STREET, CHRISTIANSBURG, VIRGINIA, ON APRIL 10, 2018 AT 7:00 P.M.

COUNCIL MEMBERS PRESENT: Mayor D. Michael Barber; Vice-Mayor Bradford J. Stipes; Samuel M. Bishop; Harry Collins; Steve Huppert; Merissa Sachs; Henry Showalter. ABSENT: None.

ADMINISTRATION PRESENT: Town Manager Randy Wingfield; Clerk of Council Michele Stipes; Town Attorney Theresa Fontana; Director of Public Relations Melissa Demmitt; Finance Director/Treasurer Val Tweedie; Director of Planning Andrew Warren; Director of Engineering Wayne Nelson; Director of Parks and Recreation Brad Epperley; Public Relations Specialist Anaika Miller; Police Chief Mark Sisson.

I. CALL TO ORDER

- A. Moment of Reflection
- B. Pledge of Allegiance

II. ADJUSTMENT OF THE AGENDA

- A. Councilman Bishop made a motion to move Item B from the Consent Agenda to Discussions and Action by Mayor and Council to allow for discussion on the matter. Councilman Stipes seconded the motion and Council voted as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Aye; Showalter – Aye; Stipes – Aye. The matter was placed as Item B under VIII. Discussions by Mayor and Council.

III. PUBLIC HEARINGS

- A. Ordinance to amend Chapter 24 “Nuisances” of the Christiansburg Town Code in regards to Article II – Regulation of Noise. There was no one to speak for or against this matter.
- B. Ordinance to amend Chapter 42 “Zoning” of the Christiansburg Town Code in regards to permitting a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Chapter 24 “Nuisances” Article II – Regulation of Noise by Conditional Use Permit in the A, MU-1, MU-2, B-1, B-2, B-3, I-1, and I-2 zoning districts.

Stacy Martin, 72 New River Road, voiced his concern that Christiansburg businesses were not receiving fair representation from Town government, and he called attention to the decibel ratings outlined in the proposed noise ordinance amendment that he stated would be restrictive to small businesses and difficult to comply with during normal business operation. Mr. Martin said his ongoing questions regarding the decibel ratings and enforcement had not been answered which caused him serious concern with the proposed changes. Mr. Martin reminded Council

that small businesses generate tax revenue for the Town and he encouraged Council to be fair to both businesses and residents when considering community matters of concern.

IV. CONSENT AGENDA

- A. Council meeting minutes of March 27, 2018.
- B. Approval of Bike Sharing Program Memorandum of Understanding.
- C. Resolution Recognizing April 8 – 14, 2018 as National Public Safety Telecommunicators Week.
- D. Proclamation for the Week of the Young Child, April 16–20, 2018.
- E. Proclamation for National Work Zone Awareness Week – April 9 – 13, 2018.
- F. Notice of Intent to Award a Contract to Adams Construction for Primary Extension Paving. Estimated project cost is \$698,076.76, with a 50/50 VDOT matching grant.
- G. Schedule Public Hearing on May 22, 2018 for a Conditional Use Permit request by Safe Haven Family Services, Inc., agent for Quorum Holding Corporation for a single-family residential dwelling at 2175 Palmer Street, N.E., tax map no. 466 – A – 17 in the B-3, General Business zoning district. The property is designated as Business/Commercial on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.
- H. Reschedule Public Hearing from April 10, 2018 to April 24, 2018 for the closure of Hickok Street, N.W. to vehicular traffic from W. Main Street to Commerce Street.

Councilman Stipes made a motion to approve the consent agenda with correction to minutes, seconded by Councilman Showalter. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Aye; Showalter – Aye; Stipes – Aye.

V. CITIZEN COMMENTS

- A. William Craft of Blacksburg, owner of Craft Self-Storage and Craft Real Estate Holdings in Christiansburg, addressed Council with his concern that Christiansburg was perceived to be unfriendly to small businesses and he gave three examples in support of his belief: 1) Town businesses were excluded from the annual Town-sponsored Shred-A-Thon; 2) Recently implemented storm water management fee; 3) Criminal charges brought against Peggy Beasley, owner of Star Lite Drive-In Theater, for noise violations. Mr. Craft talked about the negative impact of the storm water management fee on small businesses, and he expressed his belief that the Town knew the court would not uphold the charges against the owner of the Starlite Drive-In Theater but forced her to defend herself by pursuing the charge. Mr. Craft said he believes he has a good perspective on Christiansburg since his businesses have been local and family-owned since 1919, and his father was once Christiansburg's town attorney. Councilman Huppert commented that the concern with allowing businesses to participate in the Shred-A-Thon was with the lack of facilities to handle potentially large volumes of paper and he suggested the Town look into placing certain controls that would allow businesses to participate in the event.

VI. INTRODUCTIONS AND PRESENTATIONS

Melissa Demmitt reported that the Town was experiencing audio problems with its video recording and she was attempting to record audio with a cellphone to include with the video recording online.

- A. Introduction of New Employees:
 - 1. Melissa Demmitt, Director of Public Relations, Public Relations Department
 - Casey Jenkins, Events Coordinator and Farmer's Market Manager.
- B. Christiansburg High School - Town Council Partnership. No students were present.

- C. Recognition of Parks and Recreation employee Alan Johnson for receiving the MLK Community Service Award from the Montgomery County – Radford City – Floyd County Branch of the NAACP.

Director of Parks and Recreation Brad Epperley and Director of Public Relations Melissa Demmitt introduced Mr. Alan Johnson and reported on his 48 years of service with the Town as a basketball/volleyball official and recreation assistant. Mr. Epperley talked about the positive impact Mr. Johnson has had on those he has worked with, and on the Christiansburg community, and he thanked him for his dedication to the Town and congratulated him on being awarded the MLK Community Service Award. Mrs. Demmitt read the award certificate and presented it to Mr. Johnson with her congratulations. Mr. Johnson thanked the Town for the recognition and talked about the ways working with the recreation department had fulfilled him as he watched children grow into adulthood and saw the positive impact the sports programs had on them. Council thanked Mr. Johnson for his dedicated service to the Town.

- D. Christopher Sanchez, Project Organizer with Christiansburg Institute, Inc. (CI) to present in regards to Christiansburg Institute, Inc. budget request.

Bob Leonard, Chairman of the Board of Directors, and Christopher Sanchez, Project Organizer, provided an update on the work being done to advance the vision to preserve CI as a historical asset, and promote it as a public place to learn, gather, and recreate through community partnerships; a coalition of CI, the Christiansburg Community Center, and Christiansburg Institute Alumni Association; and the future goal to appoint an authority of community members to oversee various aspects of the revitalization project. Mr. Leonard spoke of the financial challenges faced by CI over the years and shared how Christiansburg contributions had been the lifeline for general operating costs over the past eight years. A developmental committee had been created to work with students from VT and RU to establish a media presence for the purpose of bringing awareness and funds to CI, and Mr. Leonard noted the new CI website. Mr. Leonard and Mr. Sanchez talked about the challenges faced in renovating the Edgar A. Long building, including its age and high costs associated with requirements that construction must reflect the integrity of the original building, due to its historical status. Snyder and Associates had prepared a roof restoration quote of \$150,000, and Mr. Leonard clarified rumors regarding a USDA loan of \$1.6M, stating that the required match had not been reached and the debt was not incurred. Councilman Stipes noted that CI's budget request for FY 2019 had failed to receive a majority of Council support at this time, but stated that development of a coalition and a proposed authority to include the Town, Montgomery County, etc., sparked interest in discussing how to move forward in working with CI in a productive and effective manner. Councilman Huppert referred to the Town's contributions to CI over the years and commented that he wanted to see effective action by the board to generate public interest and funds for CI. Mayor Barber noted that VT had an advisory interest in CI and asked if VT also provided financial backing. Mr. Leonard responded that VT had not offered financial support at this time. Council expressed strong support for preserving the history of CI and asked to be notified in advance of future coalition meetings. Councilman Showalter recommended the CI board use the Town's new Events Coordinator and representatives of DCI as resources in planning future events. Mr. Leonard noted that he met with Casey Jenkins, Events Coordinator, on Friday.

- E. Wayne Nelson to provide an update on NRV Regional Water Authority.
Mr. Nelson thanked Council for the opportunity to speak and provided a brief background of the Joinder Study that led to the creation of a regional water authority comprised of Montgomery County, Christiansburg, Blacksburg, and Virginia Tech. The focus of the report was on water line projects currently underway in the Prices Fork and Plum Creek areas, and Mr. Nelson used slides to indicate the location and details of the projects. Mr. Nelson talked about the necessity

of upgrades to the Town's water facilities, due to age and disrepair, including the immediate need for a generator to address power outages and electrical system failures. Mr. Nelson outlined in detail the plan in place for construction upgrades to the water facility, then reported on the progress of improvements to the Waste Water Treatment Plant, estimated at \$27.5M, and explained the construction approach and financial decisions made in managing the complex project. Construction at the WWTP is scheduled to begin in Summer 2018, with completion expected in Fall 2020.

VII. COMMITTEE REPORTS

- A. Councilwoman Sachs provided updates from the Central Business District Committee on its review of Department of Housing and Community Development Programs in search of available grants for downtown areas; continued plans for the permanent closure of Hickok Street; and continued discussions regarding parking to accommodate events on Hickok Street.

VIII. DISCUSSION BY MAYOR AND COUNCIL

A. Council action on:

1. Council action on:

- a. Request by Downtown Christiansburg, Inc. (DCI) for a street closure of Hickok Street, N.W. from W. Main Street to Commerce Street, N.W. for a Wine & Artisans event on April 27, 2018.

Justin Sanders of DCI reported on the DCI Board decision to create four standing committees, Design, Economic Vitality, Promotion, and Organization, to assist in meeting the long-term goals of the group's Visioning Study currently underway. Mr. Sanders talked about DCI sponsored events for 2018 and outlined the street closure request for the Wine & Artisans 2018 event. According to Mr. Sanders, parking was adequate and adjacent property owners had been notified and invited to promote their businesses during the event. Councilman Stipes made a motion to approve the street closure as requested, seconded by Councilwoman Sachs. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Aye; Showalter – Aye; Stipes – Aye.

2. Approval of Scoreboard Addendum for Kiwanis Park Operating Agreement.

At Councilman Bishop's inquiry, Director of Parks and Recreation Brad Epperley explained that the Kiwanis Club had requested to release ownership of the scoreboard at Kiwanis Park to the Town. The scoreboard is old, but operable, and per the operating agreement, the Town provides for its maintenance. Mr. Epperley noted that, with Town ownership, sponsorships could be obtained for the maintenance, or even replacement, of the board, and he expressed that he believed it would be beneficial to the Town to own the scoreboard for tournaments. Councilman Showalter pointed out that the Town could end up eventually buying and installing a new scoreboard, even if it doesn't take ownership. Mr. Epperley stated that if the Town does not assume ownership, Kiwanis may choose to remove the scoreboard.

Mayor Barber asked Council if it would be interested in holding a work session to discuss the proposed noise ordinance amendments prior to Council action on April 24. Dr. Casali, an expert on the decibel system, offered to provide a presentation on the noise levels outlined in the amendment. Dr. Casali presented to the Planning Commission during its

review of the ordinance amendment. Council agreed to hold a work session on this matter, which has been scheduled for Wednesday, April 18 at 6:00 P.M.

X. STAFF REPORTS

A. Town Manager Wingfield:

- Schedule Public Hearing for May 8, 2018 for water and sewer rate increase and the FY 2018-2019 Annual Budget. Councilman Showalter made a motion to approve setting the Public Hearings as recommended, seconded by Councilman Collins. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Huppert – Aye; Sachs – Aye; Showalter – Aye; Stipes – Aye.
- In response to earlier comments regarding the annual Shred-A-Thon, Mr. Wingfield explained that originally the program was grant-sponsored through the TRIAD seniors group and was only open to seniors and then residents, with the number of trucks being dictated by grant funding amounts, with volume so great that at times residents had been turned away. Two trucks are currently used during the event, which would not be enough to handle the potential volume of paper businesses could present, and additional funding would be needed to accommodate small businesses (which is a possibility).

B. Town Attorney:

- Town Attorney Theresa Fontana said she was planning to work at Town Hall on Thursday and offered to meet with any council members to discuss or answer questions pertaining to the proposed noise ordinance amendment. She agreed that a presentation by Dr. Casali would be beneficial in understanding guidelines outlined in the proposed amendment.

C. Other Staff:

- Planning Director Andrew Warren offered to answer questions of Council regarding the proposed noise ordinance and called attention to his staff report in the agenda packet that highlighted the proposed changes.
- Director of Parks and Recreation Brad Epperley reported that the bike share program was moving forward and expected to begin in May 2018. The program has been named Roam NRV and is in partnership with Blacksburg and Montgomery County.

XI. COUNCIL REPORTS

- a. Councilwoman Sachs asked if Council would be interested in a discussion on eliminating the Town's payment of merchant service fees and charging customers for the use of credit card payments. Council agreed to study this matter for FY 2019-2020.
- b. Councilman Huppert – No report.
- c. Councilman Stipes recognized and welcomed Dr. Casali to the meeting, and commended Councilwoman Sachs on her service as a member of Council.
- d. Councilman Showalter – No report.
- e. Councilman Bishop – No report.
- f. Councilman Collins commented on the Planning Commission Public Hearing on the proposed noise ordinance amendment and expressed support for Dr. Casali's presentation that provided clarification on the decibel system.
- g. Mayor Barber reported that a renaming dedication of Armory Park, to be called the Town of Christiansburg Downtown Park Dedicated to Our Fallen Officers, is scheduled for May 9 and is

in honor of Officers Terry Griffith and Scott Hylton who were killed in the line of duty. Public Works and Parks and Recreation have assisted the Police Department on this endeavor.

XII. OTHER BUSINESS

XIII. ADJOURN

There being no further business to bring before Council, Mayor Barber adjourned the meeting at 9:09 P.M.

Michele Stipes, Clerk of Council

D. Michael Barber, Mayor

**CHRISTIANSBURG TOWN COUNCIL
CHRISTIANSBURG, MONTGOMERY CO., VA.
WORK SESSION AND SPECIAL MEETING* MINUTES
APRIL 18, 2018 – 6:00 P.M.**

**Council agreed to not hold the scheduled special meeting for the purpose of taking action on the matters discussed during the work session. Council action on those matters was scheduled for the next regular council meeting.*

A WORK SESSION OF THE CHRISTIANSBURG TOWN COUNCIL, MONTGOMERY COUNTY, CHRISTIANSBURG, VA. WAS HELD AT CHRISTIANSBURG TOWN HALL, 100 EAST MAIN STREET, CHRISTIANSBURG, VIRGINIA, ON APRIL 18, 2018 AT 6:00 P.M.

COUNCIL MEMBERS PRESENT: Mayor D. Michael Barber; Vice-Mayor Bradford J. Stipes; Samuel M. Bishop; Harry Collins; Steve Huppert; Merissa Sachs; Henry Showalter. ABSENT: None.

ADMINISTRATION PRESENT: Town Manager Randy Wingfield; Clerk of Council Michele Stipes; Town Attorney Theresa Fontana; Director of Public Relations Melissa Demmitt; Planning Director Andrew Warren; Police Chief Mark Sisson.

WORK SESSION

I. Call to Order by Mayor Barber

II. Discussions by Mayor and Council Members

- A. Proposed ordinance to amend Chapter 24 “Nuisances” of the *Christiansburg Town Code* in regards to Article II – Regulation of Noise. See comments below.
- B. Proposed ordinance to amend Chapter 42 “Zoning” of the *Christiansburg Town Code* in regards to permitting a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Chapter 24 “Nuisances” Article II – Regulation of Noise by Conditional Use Permit in the A, MU-1, MU-2, B-1, B-2, B-3, I-1, and I-2 zoning districts.

Planning Director Andrew Warren provided a brief overview and summary of the proposed changes to Chapter 24 and Chapter 42 of the *Christiansburg Town Code* that included noises prohibited based on the decibel system with various factors, the Conditional Use Permit purpose and process, definitions, and enforcement of the code. Mr. Warren called attention to the process used in modifying the ordinances that included two public input meetings, a Planning Commission Public Hearing, a Town Council Public Hearing, and tonight’s work session, with Council action scheduled for April 24, 2018, and noted that the Planning Commission had unanimously recommended Town Council approval of the proposed amendments. Council discussed with Mr. Warren the effect of ambient noise levels on decibel measurements and the application of the Conditional Use Permit process for specific situations. Mr. Warren noted that a CUP for noise allowances would not be permitted in areas zoned residential. Town Attorney Theresa Fontana noted that the changes were meant to provide for more flexibility within the ordinance as opposed to the former “one size fits all” approach and explained how the CUP process was designed to limit conflicts arising from noise. Councilman Stipes commented that, while clarification was needed within *Town Code* pertaining to noise, the principal foundation that people should be able to enjoy their

property without a “nuisance”, as legally defined, had not changed, and further noted that the Town had been encouraged via email from several individuals in the business community to employ the decibel system when measuring noise to be more objective in addressing complaints. Councilman Showalter asked how businesses would determine the decibel level of noise generated when requesting a CUP, and Town Manager Wingfield and Police Chief Sisson responded that the Town would work with businesses in determining appropriate and reasonable noise levels during the CUP process. Councilman Huppert provided several noise conflict scenarios and asked how each would be handled by law enforcement officers. Police Chief Sisson said the goal of his department was to diffuse situations that arose within the community pertaining to noise and that the department took a reactive approach, not a proactive approach in addressing noise complaints.

Dr. John Casali, Virginia Tech Professor of Industrial and Systems Engineering, and CTO of HEAR (Hearing, Ergonomics, and Acoustics Resources), LLC, introduced himself and clarified that he was not present as a paid consultant, but had offered his objective expertise on the subject of sound and noise after attending the first neighborhood meeting regarding noise generated by Starlight Drive-In Theater. Dr. Casali, after providing the Planning Commission with his knowledge and insight on the subject of noise, and giving a noise demonstration with a decibel meter, had been invited by Council to provide the same presentation for their benefit, but was not being paid for his services. Dr. Casali stressed that he was present strictly for technical issues and his opinions were his own, with his goal being to find the best compromise for all involved.

Dr. Casali explained the four sets of revisions to the noise ordinance since the first Planning Commission meeting, and noted that with the inclusion of decibel measurement criteria, the once subjective ordinance, would become more quantitative, objective, and defensible, and he talked about the necessity to protect residential property owners rights, as well as to protect the ability of business owners to conduct business with reasonable sound emission, which would be done through the CUP process. Highlights of Mr. Casali’s presentation are as follows:

- The draft ordinance is compatible with Montgomery County’s noise ordinance, which should facilitate enforcement.
- The draft ordinance is a civil code, which lowers the burden of proof and may be an advantage for violators because it does not carry the criminal stigma.
- Recommended reconsidering the defined **five minutes** for animal noise, i.e. barking dogs, to **1 to 2 minutes with at least one occurrence** to avoid opportunities to circumvent the ordinance, and to address the most frequent animal noise complaint, which is dogs barking at cars or passersby.
- Explained dBA versus dBC on the decibel system and explained how they would apply in addressing noise issues and which would be more applicable for specific situations.
- Reviewed and explained the decibel measurement criteria and variables set forth in the draft ordinance and gave an audio demonstration for use in understanding the noise level benchmarks established in the draft ordinance.
- Reported that the draft ordinance was in compliance with the typical municipal ordinance and was in line with Montgomery County guidelines.

Council discussed the Conditional Use Permit process and the one-time \$750.00 application fee and agreed to assume the fee for Conditional Use Permit applications pertaining to the noise ordinance for a certain period of time. Specific details will be decided and presented during the regular council meeting on April 24, 2018. Town Attorney Fontana advised that the ordinance must be content neutral and can not show preference for certain types of

businesses, that it must be broad, with the use of the Conditional Use Permit process for all special situations that don't fit within the ordinance.

Town Council thanked Dr. Casali and Planning Director Andrew Warren for their presentations.

III. Adjournment

There being no further business to bring before Council, Mayor Barber adjourned the meeting at 7:40 P.M.

Michele Stipes, Clerk of Council

D. Michael Barber, Mayor

TOWN OF CHRISTIANBURG		
BILLS TO BE PAID FOR THE MONTHS OF	MARCH AND APRIL	
A A AUTOMATIC TRANSMISSION	356.00	
A MORTON THOMAS AND ASSOCIATES, INC	41,271.35	ENGINEERING SERVICES CHURCH RIGBY;DTWN WATERSHED; HANS MEADOW;
ADAMS CONSTRUCTION CO.	2,724.27	ASPHALT MIX
ALGONQUIN PRODUCTS COMPANY	268.00	
ARC3 GASES	357.46	
ATKINS EXCAVATING INC	58,511.83	TOWN BRANCH STREAM RESTORATION
ATLANTIC EMERGENCY SOLUTIONS, INC	1,738.70	REPAIRS AND MAINTENANCE FIRE APPARATUS
ATLANTIC UTILITY SOLUTIONS,INC	4,745.00	2 NEW METERS AND 19 LG METER TESTING
AUDIOTRONICS	277.49	
AUTO ZONE, INC	87.37	
AXON ENTERPRISE, INC	918.00	
AZTEC RENTAL CENTER	50.00	
B & K TRUCK ACCESSORIES	990.00	
B & T LAWN CARE LLC	11,640.00	MOWING PARKS, REC, TOWN HALL, FIRE, RESCUE, AQ WWTP
BANE OIL COMPANY, INC	1,484.43	OFF ROAD DIESEL
BASHAM OIL COMPANY	323.86	
BELL OIL COMPANY OF VIRGINIA, INC	36.75	
BLACKBERRY MULCH	46.80	
BLACKSBURG POWER EQUIPMENT	104.90	
BLUE RIDGE DIESEL INJECTION	87.15	
BMG METALS INC	1,597.45	VEHICLE MAINTENANCE AND REPAIR
BOB'S REFUSE SERVICE, INC.	220.00	
BOONE TRACTOR & IMPLEMENT INC.	71.14	
BOUND TREE MEDICAL, LLC	5,758.14	MEDICAL SUPPLIES RESCUE
BOXLEY ASPHALT, LLC	1,148.85	ASPHALT MIX
BRAME SPECIALTY COMPANY INC.	2,103.15	JANITORIAL SUPPLIES
CAMBRIDGE COMPUTER SERVICES, INC	2,425.00	PROFESSIONAL SERVICES IT
CARDINAL BLUEPRINTERS, INC.	700.00	
CARILION HEALTHCARE CORP.	445.00	
CARTER MACHINERY	676.72	
CENTRAL ELEVATOR INSPECTION SERVICES II, LLC	80.00	
CHA CONSULTING INC	15,638.75	ENGINEERING SERVICES COLLEGE ST SEWER REHAB AND ARROWHEAD SSES
CMC SUPPLY, INC.	643.32	
COLORADO TIME SYSTEMS	4,205.00	TOUCH PADS AQUATICS
CROW'S NEST GREENHOUSES	79.00	
CUMMINS INC	657.39	
CURTIS BAY MEDICAL WASTE VIRGINIA, LLC	44.00	
D J R ENTERPRISES	338.05	
DALE'S GARAGE	889.20	
DAN'S GARAGE RADFORD, LLC	380.00	
DATA NETWORK SOLUTIONS, INC	3,600.00	IT PROFESSIONAL SERVICES
DIANE C FENTON	50.00	RECREATION COMMISSION
DUNCAN FORD MAZDA	354.44	
DYNAMIC DATA SYSTEMS, LLC	1,770.00	DATA BASE SUPPORT CEMETERY
EAST COAST EMERGENCY VEHICLES, LLC	785.31	
ECS/ENG.CONSULTING SERVICE LTD	2,510.84	ENGINEERING SERVICES CAMBRIA STREET PAVING
ELECTRICAL EQUIPMENT COMPANY	2,392.00	DRIVE MOTOR FOR WWTP
ELECTRICAL SUPPLY CO	778.49	
ELEVATING EQUIPMENT INSPECTION SERVICE	105.00	
EMS MANAGEMENT & CONSULTANTS, INC	2,522.97	THIRD PARTY BILLING FEE
ENVIRONMENTAL LAND WASTE MANAGEMENT SERVICE, INC	15,000.00	BIOSOLID MANAGEMENT AND DISPOSAL
EXCEL TRUCK GROUP	1,230.75	
FAIL SAFE TESTING, LLC	2,279.00	FIRE HOSE AND LADDER TESTING FIRE DEPT
FASTENAL COMPANY	257.60	
FERGUSON ENTERPRISES, INC.#75	6,090.93	VARIOUS PIPE AND FITTINGS FOR WATER, WASTE WATER, STORM DRAIN
FIRE RESCUE AND TACTICAL, INC	484.91	
FIRE SAFETY PRODUCTS, INC	355.00	
FISHER AUTO PARTS, INC.	87.10	
FITNESS CONCEPTS, INC.	176.00	
FLEET PRIDE, INC	4,370.04	PARTS AND SUPPLIES FOR VEHICLE AND EQUIPMENT REPAIR AND MAINTENANCE
G & H APPLIANCE, INC.	899.00	
G/A SAFETY SUPPLY, INC	1,456.16	SAFETY SUPPLIES PW
GALLS, AN ARAMARK COMPANY	2,106.08	UNIFORMS PD
GATES FLOWERS AND GIFTS, LLC	44.00	
GAY AND NEEL, INC.	8,181.00	ENGINEERING SERVICES IND/NFRANKLIN; N. FRANKLIN DRAINAGE; FALLING BRANCH INTERSECTION
GOVDIRECT, INC	756.76	
GRAINGER	485.46	

TOWN OF CHRISTIANBURG		
BILLS TO BE PAID FOR THE MONTHS OF	MARCH AND APRIL	
GUYNN & WADDELL, P.C.	11,053.10	LEGAL SERVICES
HACH COMPANY	28.98	
HAJOCA CORPORATION	9.67	
HALL'S GARAGE DOORS, INC	270.00	
HAMANN INC	8,100.00	CEMETERY MOWING
HALDEMAN HOME INC	30,800.00	NEW DIVIDER CURTAINS AT RECREATION CENTER
HANDY RENTALS, INC	247.50	
HARPER AND COMPANY INC.	13,625.00	POOL VAC AQ 10,120 AND CHLORINE
HARVEY CHEVROLET CORP.	2,735.53	VEHICLE REPAIR
HOSE HOUSE, INC.	9.18	
HOUSTON N. SNODDY	400.00	
HUNTER SMITH'S CUSTOM MILLING	327.50	
HURT & PROFFITT, INC	21,999.21	ENGINEERING SERVICES ARBOR DRIVE; ROANOKE ST;QUINN STUART
IES COMMERCIAL, INC	1,580.01	EXACACQ (CAMERAS) MAINTENANCE AGREEMENT
INNOVATIVE SYSTEMS & SOLUTIONS, INC	6,607.69	IT EQUIPMENT
INTERNATIONAL CODE COUNCIL	173.95	
INTERSTATE BATTERY SYSTEM OF ROANOKE VALLEY, INC	393.26	
IPMA-HR	149.00	
JAMES RIVER EQUIPMENT-SALEM	1,765.68	REPAIR AND MAINTENANCE EQUIPMENT PW
JAMES RIVER LASER & EQUIPMENT, LLC	182.59	
JAMES ROBERT WILLIAMSON, JR.	75.00	RECREATION COMMISSION
JOHN T. NEEL	75.00	RECREATION COMMISSION
JORDAN OIL CO., INC.	2,387.70	FUEL FIRE DEPT
JOSHUA B. COOK	135.00	
KERESTES-MARTIN ASSOCIATES, INC	2,986.50	WAYFINDING SIGNS CONSTRUCTION DOCUMENTS
KIMBALL MIDWEST	320.84	
KING-MOORE, INC	2,430.00	IT CONSULTING SERVICES
KINGS TIRE SERVICE, INC	972.00	
KORMAN SIGNS, INC.	1,685.78	MATERIALS FOR SIGNAGE, PW
LANDSCAPE SUPPLY INC.	1,772.00	MATERIALS FOR BALL FIELDS RECREATION
LANE-ENTERPRISES, INC	174.00	
LANGUAGE LINE SERVICES	9.60	
LITTLE RIVER POOL AND SPA, INC	171.88	
LOWES HOME CENTERS, INC.	5,476.25	VARIOUS SUPPLIES FOR BUILDING AND GROUNDS MAINTENANCE
MATTHEW STEWART DAVIDSON	25.00	RECREATION COMMISSION
MCCORMICK TAYLOR, INC	13,396.10	ENGINEERING SERVICES NFRANKLIN CORRIDOR AND FALLING BRANCH
MCDONOUGH BLYARD PECK, INC	9,952.00	CONSTRUCTION INSPECTION SERVICES QUINN STEWART BLVD
MEADE TRACTOR	174.66	
METRO HEAVY-DUTY, INC.	137.90	
MICHAEL L. SAYLORS	25.00	RECREATION COMMISSION
MONTGOMERY CO FIREFIGHTER & RESCUE ASSOCIATION	25.00	
MOORE MEDICAL CORP.	507.71	
NETWORKFLEET INC	287.35	
NEW LEAF FARMS, INC	101.85	
NEW RIVER ENGRAVING	146.75	
NEW RIVER FIRE EXTINGUISHERS	394.50	
NICHOLE MARIE DIOIA	50.00	RECREATION COMMISSION
NORFOLK SOUTHERN CORPORATION	2,505.00	FLASHING LIGHT MAINTENANCE
NORTHERN TOOL & EQUIPMENT	538.00	
NORTHWEST HARDWARE CO INC	57.68	
NRV REGIONAL WATER AUTHORITY	645,899.40	QUARTERLY WATER PAYMENT TO THE AUTHORITY
OLD TOWN PRINTING & COPYING	389.53	
O'REILLY AUTO PARTS	1,421.83	VEHICLE REPAIR AND MAINTENANCE
OVERHEAD DOOR CO. OF ROANOKE	536.00	
PACE ANALYTICAL SERVICES, INC.	1,100.20	TESTING WWTP
PC LAND, INC.	40.00	
PCM-G	3,800.00	IT LICENSE RENEWAL NETMOTION
POWER ZONE	1,758.65	REPAIRS AND MAINTENANCE SMALL EQUIPMENT AND MOWERS
PRECISION GLASS & UPH. INC.	732.24	
PROFESSIONAL COMMUNICATIONS	3,769.00	4 NEW RADIOS AND PAGER SERVICE
PSD SOFTWARE, LLC	12,600.00	HYPER WEB PW SOFTWARE MAINTENANCE
PV BUSINESS SOLUTIONS, INC	298.50	
PYROTECNICO	7,150.00	4TH JULY CELEBRATION DOWN PAYMENT
QUALITY TIRE & BRAKE SERVICE	1,787.00	VEHICLE REPAIR AND MAINTENANCE
QUILL CORP.	59.40	
R.M.C. EVENTS, INC	304.75	
RADIO SOURCE LLC	2,606.00	6 UHF PAGERS FIRE DEPT

TOWN OF CHRISTIANBURG		
BILLS TO BE PAID FOR THE MONTHS OF	MARCH AND APRIL	
RAILROAD MANAGEMENT COMPANY IV, LLC	499.55	
RICHARD POLIKOFF	75.00	RECREATION COMMISSION
ROBERTS OXYGEN COMPANY, INC	588.14	
ROBIN L. BOYD	50.00	RECREATION COMMISSION
ROCAN INDUSTRIAL PRODUCTS, INC	774.04	
SAFE AIR SYSTEMS	980.87	
SAFETY & COMPLIANCE SERVICES, INC.	709.00	
SANICO, INC	4,093.19	JANITORIAL SUPPLIES
SCHNABEL, INC	4,573.80	ENGINEERING SERVICES HBT3
SERVICE COMMUNICATION	75.00	
SERVICEMASTER COMMERCIAL CLEANING	3,629.00	CLEANING AQUATIC CENTER
SHELOMOTOR MILE	196.56	
SHRED-IT US JV LLC	78.86	
SIGN-A-RAMA	225.00	
SNAP-ON TOOLS	191.65	
SOURCE 4	307.90	
SOUTHERN AIR, INC	27,537.67	9965.20 HVAC AT WWTP 17572.47 REPAIR SYSTEMS AT AQUATICS
SOUTHERN POLICE EQUIPMENT	1,576.27	POLICE SUPPLIES
SOUTHERN STATES	796.56	
STAPLES BUSINESS ADVANTAGE	63.27	
STATE ELECTRIC SUPPLY CO.,INC.	1,008.51	PARTS AND SUPPLIES FOR BUILDING MAINTENANCE
STONER, INC	122.61	
SUBURBAN PROPANE, L.P.	615.88	
SUNAPSYS, INC	53,074.35	WWTF UPGRADE CONTROL SYSTEMS
TAYLOR OFFICE & ART SUPPLY,INC	2,637.09	OFFICE SUPPLIES VARIOUS TOWN DEPTS
TELEDYNE ISCO, INC.	5,801.50	FLOW METER WWTP
TEMPLETON-VEST	366.00	
TENCARVA MACHINERY CO.	1,345.45	
THOMPSON & LITTON, INC	1,991.46	ENGINEERING SERVICES CHRUCH RIGBY ELLETT
THOMPSON TIRE & MUFFLER	1,413.82	VEHICLE REPAIRS AND MAINTENANCE
TIDY SERVICES	141.80	
TONIA DENISE WINN	75.00	RECREATION COMMISSION
TOWN OF BLACKSBURG	102,063.50	BBT 69846.50 CAPITAL BBT 30000 BIKESHARE 7217
TREASURER OF MONTGOMERY COUNTY	205,258.25	911 QUARTERLY CONTRIBUTION
TREASURER OF VIRGINIA	831.00	
TRITECH SOFTWARE SYSTEMS	1,260.00	CRIME MAPPING SOFTWARE PD
U S BEARING AND POWER TRANSMISSION CORP	420.60	
ULINE	52.64	
UNIFIRST CORPORATION	7,120.37	UNIFORMS AND MATTS
UNITED RENTALS, INC.	1,803.67	LIFT RENTAL
USA BLUE BOOK	212.30	
VA PUBLIC WORKS EQUIPMENT CO	84.74	
VACO SERVICES INC	50.00	
VALLEY PRINTERS, INC	4,940.00	RECREATION BROCHURES, SPRING
VEST'S SALES & SERVICE, INC.	19,071.00	STRYKER POWER LOAD STRECHER RESCUE
VIRGINIA EVERYWHERE LLC	275.00	
VIRGINIA POWER MOTOR SPORTS LLC	7,600.00	GOLF CART WWTP
VIRGINIA TOURISM AUTHORITY	240.00	
VIRGINIA UTILITY PROTECTION SERVICE, INC	365.40	
VIRGINIA'S NRV ECONOMIC DEVELOPMENT ALLIANCE	1,250.00	ONWARD NRV, ANNUAL SUPPORT
W L CONSTRUCTION SUPPLY INC	419.99	
WADES FOODS INC.	75.91	
WEST END ANIMAL CLINIC, INC	210.42	
WESTERN BRANCH DIESEL, INC.	930.66	
WETLAND STUDIES AND SOLUTIONS, INC	1,435.64	ENGINEERING SERVICES TOWN BRANCH
WILSON BROTHERS INCORPORATED	116.69	
WITMER PUBLIC SAFETY GROUP, INC	460.99	
WORDSPRINT	69.00	
ZEP MANUFACTURING CO	331.74	
TOTAL BILLS TO BE PAID APRIL 27, 2018	1,527,519.07	

**TOWN OF CHRISTIANBURG
BILLS PAID DURING THE MONTH OF
SPECIAL REVENUE FUNDS**

MARCH AND APRIL

VENDOR	AMOUNT PAID	DESCRIPTION
CARDMEMBER SERVICES	76.49	
EXXON MOBIL	265.75	
HALEY FORD SOUTH	29,175.94	2018 Ford Police Interceptor Utility
MUNICIPAL EMERGENCY SERVICES DEPOSITORY ACCT	173.83	
NEW RIVER ENGRAVING	28.00	
PROFESSIONAL COMM	2,000.00	CHARGERS, NEW BATTERY, UHF DIGITAL PORTABLE
SOUTHWEST VIRGINIA FIREFIGHTERS ASSOCIATION	630.00	72nd Annual Convention Registration
TOWN OF CHRISTIANBURG	462.96	
VERIZON	645.76	
VIRGINIA BUSINESS SYSTEMS	261.29	
TOTAL PAID BILLS	33,720.02	

TOWN OF CHRISTIANBURG		
BILLS PAID DURING THE MONTH	MARCH AND APRIL	
VENDOR	AMOUNT PAID	DESCRIPTION
AIRGAS NATIONAL CARBONATION	1,595.02	CARBON DIOXIDE GAS FOR AQUATICS
ALLSTATE INSURANCE	3,516.90	EMPLOYEE PAID INSURANCE
ANTHEM BLUE CROSS BLUE SHEILD	292,935.41	EMPLOYEE HEALTH INSURANCE
ANTHEM LIFE INSURANCE	3,215.98	EMPLOYEE LIFE INSURANCE
APPALACHIAN POWER	70,690.39	ELECTRIC BILLS TOWN WIDE
AT & T	386.76	
ATMOS ENERGY	10,004.55	GAS BILLS TOWN WIDE
BLACKBERRY LAND CO LLC	70.20	
BMS DIRECT	6,284.19	POSTAGE, PRINTING WATER BILLS AND NEWSLETTER
CARDMEMBER SERVICES	30,984.83	SUPPLIES EQ18282.73 DUES 605 SCHOOLS 6841.88. TRAVEL 3998.59 SOFTWARE -1192.76 UNIFORMS 0 RECRUITING RETENTION FIRE RESCUE 2449.39
CAROLINA INDUSTRIAL EQUIPMENT	763.38	
CHANDLER CONCRETE	4,024.52	FOR PUBLIC WORKS REPAIRS
CITIZENS	3,175.00	INTERNET
COLD STONE CREAMERY	16.00	
COPPERHEAD GRAPHICS	1,657.00	GRAPHICS ON MEDIC 90
CRYSTAL SPRINGS	143.36	
DATA MANAGEMENT INC	53,900.00	NEW TIMEKEEPING SYSTEM IMPLEMENTATION AND SUPPORT
DELTA DENTAL	7,119.98	EMPLOYEE DENTAL INSURANCE
DELL MARKETING	1,720.58	DELL MONITORS,
DONS AUTO CLINIC	309.00	
DTN INC	296.00	
FEDERAL EXPRESS CORPORATION	365.79	
GENWORTH LIFE INSURANCE COMPANY	346.35	
GOV DEALS	355.99	
GOV-DIRECT	568.77	
HALEY SOUTH INC	126,723.78	4 NEW PD VEHICLES
HOME DEPOT CREDIT SERVICES	198.13	
KROGER	324.69	
LUMOS NETWORKS INC	1,065.70	PHONE SERVICE
MANSFIELD OIL	135.77	
MONTGOMERY REGIONAL SOLID WASTE AUTHORITY	35,758.76	TIPPING FEES SOLID WASTE
NEW RIVER VALLEY PIZZA	29.56	
ONWARD NRV	1,250.00	
PITNEY BOWES	59.97	
PRO SPORT INC	1,980.84	UTV 90 RESCUE
PURCHASE POWER	6,027.00	POSTAGE METER FILL WITH POSTAGE
REFUND PERMITS	5,471.62	
REFUND FEES REC DEPT	1,030.00	
REFUND FEES AQUATICS DEPT	45.00	
REFUND TAXES	15,725.86	REFUND TAX OVERPAYMENTS AND CORRECTIONS.
REFUND WATER/SEWER	1,505.91	
REIMBURSEMENTS EMPLOYEES	1,804.75	WORKBOOT REIMBURSEMENTS
ROLLER VENTURES	30.00	
ROANOKE TIMES	4,307.16	ADVERTISNG, JOBS PUBLIC HEARINGS ETC
ROBERTS MUFFLER	100.00	
RODGERS SPORTS INC	2,630.00	ATHLETIC FIELD IMPROVEMENTS
ROLLER VENTURES	30.00	
SALEM STONE	572.73	SAND GRAVEL ETC FOR STREET AND WATER REPAIRS.
SAMS CLUB	99.82	
SANICO	185.03	
SCHOOLS	100.00	ENG 100
SISSON&RYAN LLC	3,548.85	SAND GRAVEL ETC FOR STREET AND WATER REPAIRS.
SHENTEL	416.74	

TOWN OF CHRISTIANBURG		
BILLS PAID DURING THE MONTH	MARCH AND APRIL	
VENDOR	AMOUNT PAID	DESCRIPTION
SOUTH EASTERN SECURITY CONSULTANTS	405.00	
SOUTHERN STATES	74.49	
SPEEDWAY	22,039.91	FUEL TOWN VEHICLES
SPRINT	69.48	
STAND ENERGY	4,941.23	GAS AQUATIC CENTER
STATE POLICE DEPARTMENT	52.50	
SUPER SHOES STORES INC	948.90	
TARGET SOLUTIONS LEARNING INC	7,895.00	RESCUE MEMBERSHIP SOFTWARE
TRACTOR SUPPLY	220.67	
TRAVEL	2,865.17	
TREASURER OF VIRGINIA	8,176.32	264.16 SALES TAX DPOR 100 VEC 7674.36 137.80 BLD LEVY
U.S. CELLULAR	121.48	
UPS STORE	22.30	
VIRGINIA ASSOCIATION OF COUNTIES SELF INSURANCE RISK POOL	952.72	
VERIZON	5,331.83	PHONE LINES
VERIZON WIRELESS	6,367.22	CELL PHONES AND TABLETS
VIRGINIA MEDIA	525.00	
VIRGINIA RETIREMENT SYSTEM	148,325.89	EMPLOYEE RETIREMENT
WEST PUBLISHING COMPANY	115.57	
TOTAL SPECIAL REVENUE BILLS PAID	33,720.02	
TOTAL PAID BILLS	915,054.30	
BILLS TO BE PAID	1,527,519.07	
GRAND TOTAL	2,476,293.39	



**TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET**

AGENDA LOCATION:

Consent Agenda

Meeting Date:

April 24, 2018

ITEM TITLE:

Purchasing Policy

DESCRIPTION: POTENTIAL ACTION:

Approval of the updated Purchasing Policy

DEPARTMENT:

Administration/Finance

PRESENTER:

Val Tweedie & Theresa Fontana

ITEM HISTORY:

The attached updated and revised procurement manual incorporates changes for entering into CMAR (Construction Management at Risk) and Design-Build contracts in accordance with the Virginia Public Procurement Act (VPPA). The policy has also been reformatted to include a table of contents to make it more readable, referenced the VPPA to reduce redundancy, and included provisions for the disposition of surplus property.

**TOWN OF CHRISTIANSBURG, VIRGINIA
PROCUREMENT AND SURPLUS PROPERTY MANUAL**

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Article I. – General Provisions.

1.0 Introduction.

This manual sets forth the legal authority and responsibility for the purchasing process for the Town of Christiansburg (“Town”).

1.1 Purpose.

Public purchasing embraces a fundamental obligation to the general public to ensure that procurements are accomplished in accordance with the intent of the laws enacted by the appropriate legislative body. The intent of the Virginia General Assembly is set forth in the Virginia Public Procurement Act (Code of Virginia, § 2.2-4300, *et seq.*). The Town of Christiansburg intends, through this procurement manual, to ensure the purchase of high quality goods and services at reasonable prices; that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety; that all qualified vendors have access to Town business and that no offeror be arbitrarily or capriciously excluded; that competition be sought to the maximum feasible degree; that procurement procedures involve openness and administrative efficiency; that the rules governing contract award be made clear in advance of the competition; that specifications reflect the needs of the Town rather than being drawn to favor a particular vendor; and that the Town and the vendor freely exchange information considering what is sought to be procured and what is offered; to protect the assets and funds of the Town of Christiansburg; and to maintain above-board relations with all suppliers within the Procurement Laws and Business Ethics as dictated by federal, state, and Town of Christiansburg governments. Therefore, the following manual for purchasing is hereby adopted by the Town of Christiansburg Town Council and shall take effect immediately.

1.2 Application.

This manual is established by official action of the Town of Christiansburg and applies to all contracts for goods, services, insurance, and construction entered into by the Town. All provisions herein are in conformance with Chapter 43, § 2.2-4300 *et seq.* of the Virginia Code, as amended.

When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory federal law and regulation, which includes, but may not be limited to, Title 2 of the Code of Federal Regulations, Part 200 [2 CFR 200.317-326]. See Exhibit A attached hereto.

When this manual does not specifically address a procurement issue, the issue may be resolved in accordance with the applicable section of the Commonwealth of Virginia’s law and current policy, or Title 2 of the Code of Federal Regulations, Part 200 [2 CFR 200.317-326] as may be applicable. See Exhibit A attached hereto.

1.3 Governing law.

The Virginia Public Procurement Act (VPPA) (Virginia Code §§ 2.2-4300, *et seq.*, as amended) applies to all Town purchases, except for those instances where alternative policies and procedures

have been adopted as set forth herein. The VPPA is incorporated in its entirety by reference herein. Where a specific procurement issue is not addressed in this document, the VPPA must be consulted. When the procurement involves the expenditure of federal funds, the procurement shall be conducted in accordance with applicable mandatory federal law.

1.4 Severability.

If any provision of this Policy or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this manual which can be given effect without the invalid provision or application, and to this end the provisions of this manual are declared to be severable.

1.5 Definitions.

Best value: The overall combination of quality, price, and various elements of required services that in total are optimal relative to the Town's needs.

Brand name specification: A specification by manufacturers' names and catalog, model, part, or other referencing numbers.

Brand name or equivalent specification: A brand name specification to describe the standard of style, type, character, quality, performance, and other characteristics needed to meet Town of Christiansburg requirements and which provides for the submission of equivalent products.

Capital asset: Land, improvements to land, easements, buildings, building improvements, machinery, equipment, works of art and historical treasures, infrastructure, and all other tangible or intangible assets that are used in operations and that have initial useful lives extending beyond one year and a cost of Five Thousand Dollars (\$5,000) or greater.

Capital improvement projects: Acquisitions or construction of major equipment or facilities with a useful life of more than one year, a cost greater than Five Thousand Dollars (\$5,000), and not considered maintenance.

Competitive negotiation: A method of contractor selection that includes the following elements: 1) issuance of a written request for proposal; 2) public notice; 3) proposal opening, evaluation, negotiation, and 4) contract award. The process for competitive negotiation is set forth in the VPPA and may be used for the procurement of goods, nonprofessional services, professional services, and insurance. Competitive negotiation is initiated by the issuance of a Request for Proposal (RFP). Notice of an RFP must be both published and posted ten (10) days prior to receipt of proposals.

Competitive sealed bidding: Competitive sealed bidding is used for the procurement of most goods and nearly all construction. Competitive sealed bidding is initiated using an Invitation for Bid (IFB), sometimes also referred to as an Invitation to Bid (ITB), containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Public notice of an IFB must be made by either posting in a designated public area or by publication in a newspaper of general circulation at least ten (10) days prior to the date set for receipt of the bids.

Confidential information: Any information which is available to an employee only because of the employee's status as an employee of the Town of Christiansburg and that is not a matter of public knowledge or available to the public on request. Information will be determined as confidential in accordance with the Code of Virginia.

Construction: Building, altering, repairing, improving or demolishing any structure, building, and any draining, dredging, excavation, grading or similar work upon real property.

Construction management at risk (CMAR): A procurement and delivery method which results in a commitment by a construction manager (CM) to deliver a project within a guaranteed maximum price (GMP) which is based on the construction documents and specifications plus any reasonably inferred items or tasks.

Design-build: Procurement and delivery method for hiring a contractor to both design and build a structure.

Emergency procurement: A contract awarded without competitive sealed bidding or competitive negotiation as a result of an emergency. In general, an emergency is a situation that threatens personal safety or property. An emergency has a serious and urgent nature that demands immediate action.

Goods: All material, equipment, supplies, printing and automated data processing hardware and software.

Governing body: Town of Christiansburg Town Council.

Informality: A minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid, or the Request for Proposal, which does not affect the price, quality, or delivery schedule for the goods, services or construction being procured.

Invitation for bid: All documents, whether attached or incorporated by reference, used for solicitation of competitive sealed bids. Also referred to as "IFB."

Job order contracting: A method of procuring construction by establishing a book of unit process and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing. The contractor may be selected through either competitive sealed bidding or competitive negotiation depending upon the needs of the public body procuring construction services. A minimum amount of work may be specified in the contract. The contract term shall not exceed three (3) years including renewals and the sum of all jobs in one-year shall not exceed \$5 million. Individual job orders shall not exceed \$500,000.

Multiphase professional services contract: A contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

Nonprofessional services: Any services not specifically identified as professional services within this policy or by the Virginia Public Procurement Act, as amended.

Professional services: Work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, medicine, optometry, pharmacy, dentistry, or professional engineering.

Public body: Any legislative, executive or judicial body, agency, office, department, town, post, commission, committee, institution, or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this policy.

Purchasing coordinator: The Town employee designated to perform purchasing functions.

Request for proposals: All documents, whether attached or incorporated by reference, utilized for soliciting proposals. Also referred to as “RFP.”

Responsible bidder or offeror: A bidder or offeror that has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been pre-qualified, if required.

Responsive bidder: A bidder that has submitted a bid which conforms in all material respects to the Invitation for Bid.

Services: Any work performed by an independent contractor which does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

Sole source procurement: Procurement without competitive sealed bidding or competitive negotiation following a determination that there is only one source practicably available for that which is being procured.

Supplies, materials, equipment and commodities: Any goods or articles which will be used by or furnished to any department or other offices of the Town of Christiansburg.

Used equipment: Equipment which has been previously owned and used and is offered “as is” “where is.” It does not include demonstration; factory rebuilt or remanufactured equipment marketed through normal distribution outlets.

Using departments: All departments, offices, and committees of the Town of Christiansburg, including those supported from funds approved by the Town of Christiansburg.

1.6 Purchasing authority.

All purchasing activities shall be taken under the direction and supervision of the Town Manager or his/her designee in accordance with the provisions in this policy. The Town Manager, as authorized by the Town of Christiansburg Town Council, shall have administrative responsibility

for all purchasing by the Town of Christiansburg and shall serve as the principal public purchasing official for the Town of Christiansburg. This individual shall be responsible for the procurement of goods, services, insurance and construction in accordance with this policy, and the establishment of regulations providing a foundation for an efficient and compliant procurement system to meet the needs of the Town of Christiansburg.

The Town Manager, as authorized by the Town of Christiansburg Town Council, may delegate purchasing authority, to purchase certain supplies, services, or construction items to other employees, or the purchasing coordinator if such delegation is deemed necessary for the effective procurement of those items.

The Town Manager, his/her designee, or the purchasing coordinator will work with the originating department to amend any purchase specifications as required.

The Town Manager, or his/her designee, shall prepare and maintain approved Purchasing Procedures containing detailed rules and regulations, consistent with this policy and the laws of the Commonwealth of Virginia, governing the operation of Town of Christiansburg purchasing activities.

1.7 Types of procurement subject to VPPA.

The VPPA applies to the following four types of procurement between the Town and a nongovernmental source:

- A. Purchase or lease of goods.
- B. Purchase of services.
- C. Purchase of insurance.
- D. Purchase of construction.

The VPPA does not cover purchases from other governmental sources or agencies, or the purchase or lease of real property.

1.8 Exceptions to the VPPA.

The VPPA provides certain exemptions from its provisions, including:

- A. Purchases pursuant to a small purchase procedure.
- B. Sole source procurements.
- C. Emergency procurements.
- D. Certain other miscellaneous exceptions.

Article II. – Small Purchase Procedure.

2.0 Goods, non-professional services, and non-transportation construction.

Goods and services, other than professional services and non-transportation related construction, if the aggregate or the sum of all phases is not expected to exceed One Hundred Thousand Dollars

(\$100,000) may be awarded in accordance with procedures as follows:

- A. Purchases from nongovernmental sources where the estimated total cost of the goods or services are \$30,000 or greater but less than \$100,000 may be made after soliciting a minimum of four (4) written quotations.
- B. Purchases from nongovernmental sources where the estimated total cost of the goods or services is \$5,000 or greater but less than \$30,000 may be made after soliciting a minimum of three (3) written or documented verbal/telephone quotations. Written quotes are preferable.
- C. Purchases where the estimated total cost of the goods or services is less than \$5,000 may be made upon receipt of one quote that is shown to be a fair and reasonable price. An effort shall be made to solicit more than one quotation when practical.
- D. Purchase of used equipment, defined as equipment which has been previously owned and used where the estimated total cost is \$5,000 or greater but less than \$30,000 may be made after soliciting a minimum of two (2) written quotations; award shall be based on the offer deemed to be in the best interest of the Town of Christiansburg. A written determination must be provided and kept in the procurement file if only one source is practicably available and the Town must negotiate a fair and reasonable price. Prior to the award of a contract for used equipment, a person technically knowledgeable of the type of equipment sought shall document the condition of the equipment stating that this purchase would be in the best interest of the Town of Christiansburg as part of the purchase documentation; price reasonableness shall be considered in determining award.
- E. Procedures may be established for the use of unsealed Bids or Requests for Proposals for goods and non-professional services when the estimated total cost of the goods or services is less than \$100,000.
- F. Nothing in this section shall preclude requiring more stringent procedures for purchases made under the small purchase method.

2.1 Transportation-related construction.

For transportation-related construction, if the aggregate or sum of all phases is not expected to exceed \$25,000, the following procedure may be used:

- A. Where the estimated total cost of the transportation-related construction is \$10,000 or greater but less than \$25,000 the purchase may be made after soliciting a minimum of three (3) written quotations.
- B. Where the estimated total cost of the transportation-related construction is less than \$10,000 the purchase may be made upon receipt of one quote that is shown to be a fair and reasonable price. An effort shall be made to solicit more than one quote when practical.

2.2 Professional services.

Procurement of professional services, where the aggregate or sum of all phases is not expected to exceed \$60,000, may be made as follows:

- A. Where the estimated total cost of the professional service is \$10,000 or greater but less than \$60,000 the purchase may be made after seeking informal proposals from not less than two (2) firms.
- B. Where the estimated total cost of the professional service is less than \$10,000, the purchase may be made upon receipt of one (1) proposal.

2.3 Use of small purchase or specialized credit cards.

Small purchase or specialized credit cards may be utilized for the purchases indicated in the credit card procedures. Credit card procedures/regulations outlining the specific, complete details for use of the purchase card must be reviewed and approved by the Director of Finance, and the Town Manager and his/her designee, prior to implementation and adoption. Misuse of any credit card program shall subject the Town officer or employee to disciplinary action, up to and including termination, in addition to any legal remedies outlined in the specific card procedures/regulations.

Article III. – VPPA Procurement Methods.

3.0 In general.

For the procurement of goods and services above the monetary limits set forth in the small purchase procedure in Article II, one of the following VPPA procurement methods must be used unless an exception applies.

3.1 Competitive sealed bidding.

Competitive sealed bidding is the preferred method for acquiring goods, construction and nonprofessional services for public use when the estimated cost is over \$100,000. However, the goods or services to be procured using this method must be capable of being described so that bids submitted by potential contractors can be evaluated against the description in the invitation for bid (IFB). The contract is awarded to the lowest responsive and responsible bidder. When the terms and conditions of multiple awards are so provided in the IFB, awards may be made to more than one bidder.

Competitive sealed bidding shall include the following steps:

- A. The issuance of a written IFB containing the specifications or scope of work/purchase description and the contractual terms and conditions applicable to the procurement;
- B. Information concerning how the Town will publicly post the notice of the award or make the announcement of the decision to award the contract;
- C. The requirements set forth in the IFB may include special qualifications required of potential contractors, life-cycle costing, value analysis, and any other criteria such as testing, quality, workmanship, delivery and suitability for a particular purpose which may help in determining acceptability. An IFB must describe the requirements accurately and completely. Unnecessarily restrictive specifications or terms and conditions that unduly limit competition must be

- avoided; and
- D. In addition to the public notice, bids may be solicited directly from potential bidders.

3.1.1 Preparation and issuance of IFBs.

- A. **Format.** Establish a due date and time that will allow sufficient time for potential bidders to seek clarification and for the issuance of an addendum, if necessary. The due date shall not be less than ten (10) calendar days from the date the IFB is publicly advertised.
- B. **Scope.** Specify in detail the materials, equipment, and supplies to be furnished or the scope of work to be performed by the contractor, including or incorporating by reference the specifications, drawings, and contractual terms and conditions applicable to the procurement.
- C. **Verify.** Verify that all requirements applicable to the procurement have been met.
- D. **Conferences/Site visits.** All pre-bid conferences and/or site visits shall be mentioned in both the IFB and any advertisement. If attendance at such a conference or site visit is a prerequisite for bidding, the public notice period shall be long enough to provide adequate opportunity for potential bidders to obtain a copy of the IFB and attend.
- E. **Addenda.** Any changes in the requirements of the solicitation must be made by written addendum. When an addendum is issued that requires additional time for the vendor to prepare a solicitation response, the due date for receipt of bids should not be less than five (5) calendar days after the issue date of the addendum.

3.1.2 Sealed bids - receipt, opening, evaluation, and award.

- A. **Receipt.** Sealed bids shall be received until the date and time specified in the IFB. Bids are then publicly opened and read aloud. Late bids shall not be considered. Faxed or e-mailed bids are not acceptable. The time of receipt shall be noted on the outside of the bid package.
- B. **Opening.** After bid opening, each bid is evaluated to determine if it is responsive to the IFB. The responsive bids are then evaluated according to the criteria and/or evaluation procedure described in the IFB to determine which one is the lowest bid.
- C. **Evaluation.** The lowest responsive bidder is then evaluated to determine if the firm is responsible.
- D. **Award.** The contract is awarded to the lowest responsive and responsible bidder. (Note: The Town must give an apparent low bidder advance written notice before making a determination of non-responsibility and must allow an opportunity for the bidder to respond with rebuttal information before moving on to the next low bidder.)

3.1.3 Withdrawal of bids before opening.

A bid may be withdrawn by a bidder if the Town receives such a request in writing before the opening date and time. The request must be signed by a person authorized to represent the person or firm that submitted the bid. Such bid may be altered as set forth below and resubmitted in a

sealed envelope or container before the opening date and hour, or another sealed bid may be submitted before that time.

3.1.4 Alterations to bids.

Prior to submission of a bid, alterations may be made to information provided by the bidder, but they must be initialed by the person signing the bid or proposal. The proper procedure is to draw a single line through the information to be changed and insert the desired information and initial the change. Erasures, strikeouts, or the use of opaque fluid on the bid form that affect unit price, quantity, quality, or delivery may result in the rejection of the line item or items involved in the bid. No changes may be made to the bid by notation on the outside of the envelope, and any such notations will not be considered except for identification purposes.

3.1.5 Mistakes in bids.

- A. **Correction.** Except as herein provided, no plea or claim of mistake shall be available to a bidder for recovery of any deposit or security required to be paid or posted or as a defense in any legal proceeding for the failure, neglect, or refusal of the bidder to (1) execute a contract that has been awarded by the Town, (2) accept a purchase order issued by the Town to a bidder in response to a bid submitted by such bidder, or (3) perform in accordance with the terms, specifications and conditions of a contract.
- B. **Mistakes Discovered Before Opening.** A bidder may correct mistakes discovered before the time and date set for receipt and opening of bids by withdrawing and replacing or by correcting the bid as set forth herein.
- C. **Mistakes Discovered After Opening But Before Award.**
 - (1) **Informality.** The Town may, in its sole discretion, waive such informalities or permit the bidder to correct them, whichever procedure is in the best interest of the Town. Examples include, but are not limited to the failure of a bidder to:
 - (a) Return the number of signed bids required by the solicitation.
 - (b) Sign the face of the bid in the space provided, but only if the unsigned bid is accompanied by other signed documents indicating the bidder's intent to be bound.
 - (c) Acknowledge receipt of an addendum to the solicitation.
 - (2) **Judgment Errors.** Bids may not be withdrawn if the mistakes are attributable to errors in judgment, nor may such mistakes be corrected.
 - (3) **Nonjudgmental Mistakes.**
 - (a) Mistakes Where the Intended Correct Bid is Evident. If the mistake and the intended correct bid are clearly evident to the Town, in the bid document, the bid may be corrected by the Town, in its sole discretion, to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident in the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
 - (b) Mistakes Where the Intended Correct Bid is Not Evident. A bidder may be permitted by the Town, in its sole discretion, to withdraw a low bid if a mistake is clearly evident from the bid documents submitted by the

bidder.

- D. **Mistakes Discovered After Award.** Bids containing mistakes shall not be corrected or withdrawn after award of a contract or issuance of a purchase order. No plea or claim of mistake in a bid or resulting contract shall be available as a defense in any legal proceeding brought upon a contract or purchase order awarded to a bidder as a result of the breach or nonperformance of such contract or purchase order.

3.1.6 Withdrawal of bids after opening.

Bids that have been appropriately opened cannot be changed, adjusted, corrected, or modified by the bidder in any way other than complete withdrawal. The Town's procedures for withdrawal of bids (whether construction or other than construction) is the procedure set forth in the VPPA allowing withdrawal of a bid due to an error.

3.1.7 Negotiation with the lowest responsive and responsible bidder.

Normally, the Town may not negotiate with bidders. A responsive bid from the lowest responsible bidder must be accepted as submitted, unless the IFB is cancelled. However, if the bid from the lowest responsive and responsible bidder exceeds available funds, the Town may negotiate with the apparent low bidder to obtain a contract price within available funds if the solicitation contains substantially the following language **"The Town reserves the right to negotiate with the apparent lowest responsive and responsible bidder pursuant to the VPPA, to obtain a contract price within the funds available if the low bid exceeds the available funds. The Town may negotiate with the apparent low bidder to determine cost saving measures that will result in a contract within available funds. Any such negotiated contract shall be subject to final approval of the Town, in the sole discretion of the Town."** If such bidder decides to negotiate under those circumstances, the decision must be documented in writing in advance of the negotiations. Otherwise, unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted. "Available funds" are generally considered those budgeted for the purchase and designated as such prior to the issuance of the IFB. The purpose of this provision is not to force a bidder to take a lower price but rather to negotiate an acceptable change in requirements, including a price agreeable to both parties. Negotiations might include an extended delivery date, reduced quantity, different accessories, etc., with a corresponding reduction in price.

3.1.8 Tie bids – Virginia preference.

- A. In the case of a tie bid, preference shall be given to goods, services and construction produced in the Town of Christiansburg or provided by persons, firms or corporations having principal places of business in the Town of Christiansburg, if such a choice is available.
- B. Except as provided in subsection (a.) in the case of a tie bid, preference shall be given to goods, services and construction produced in Virginia or provided by Virginia persons, firms or corporations having principal places of business in the Commonwealth of Virginia, if such a choice is available.

- C. Whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state preference, a like preference may be allowed to the lowest responsible bidder who is a resident of Virginia.
- D. In the event that none of the foregoing provisions of this section resolve the tie, the tie is decided by lot according to the provisions of § 2.2-4324 of the Code of Virginia. Procedures for deciding by lot may be established.

3.1.9 Collusion among Bidders.

More than one bid from an individual, firm, partnership, corporation or association under the same or different name will be rejected. Reasonable grounds for believing that a bidder is interested in more than one bid for the work contemplated will cause rejection of all bids in which the bidder is interested. Any or all bids may be rejected if there is any reason for believing that collusion exists among the bidders. Participants in such collusion may not be considered in future bids for the same work. Each bidder, as a condition of submitting a bid, shall certify that he is not a party to any collusive action as herein defined.

3.2 Competitive negotiation.

The VPPA requires the use of competitive negotiation for the procurement of professional services. Competitive negotiation may also be the procurement method used for goods and nonprofessional services.

3.2.1 Competitive negotiation for professional services.

Competitive negotiation for professional services includes the following steps:

- A. The first step is to determine that the needed services satisfy the definition of professional services (see definition of professional services). Also, if the estimated cost of the professional service is \$60,000 or less, the Town's small purchase procedure may be used.
- B. A written RFP is issued to describe in general terms for that which is to be procured.
 - (1) The RFP must specify and list any specific items to be addressed by the offerors and the factors that will be used in evaluating the proposals, including indicating whether a numerical scoring system will be used in the evaluation of the proposal. It must contain or incorporate by reference the applicable contractual terms and conditions, including any unique capabilities or qualifications required of the contractors. In the event that a numerical scoring system will be used in the evaluation of the proposals, the point values assigned to each of the evaluation criteria shall be included in the RFP or posted at a location designated for posting of public procurement notices prior to the due date and time for receiving proposals. Where the possibility of multiple awards is provided in the RFP, awards may be made to more than one offeror. The RFP must state the manner in which public notice of the award or the announcement of the decision to award shall be given by the Town.

- (2) The RFP shall not request that offerors furnish estimates of man-hour or cost for services. In addition, the Town shall not require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or other standards, until after the qualified offerors are ranked for negotiations.
 - (3) Mandatory requirements should be kept to a minimum and refer only to those areas that are required by law or regulation or are such that they cannot be waived and are not subject to negotiation. The use of "shall," "will," or "must" indicates a mandatory requirement. Specify any optional information desired. The factors for use in evaluation shall be stated in the RFP.
 - (4) The scope of work and/or technical specifications to be provided by the offeror, the location, the anticipated time period for which the services must be provided, the pertinent background information, any special qualifications required of the offeror, and whether there will be a pre-proposal meeting must be included in the RFP.
 - (5) A proposal submission due date and time must be provided which provides sufficient time for potential offerors to develop a proposal. The minimum time period is ten (10) days from public advertisement date of the RFP. The time period used may be greater than the required ten (10) days based on the complexity of the requirement and whether or not a pre-proposal conference is required.
- C. The purchasing coordinator shall select an evaluation panel. The purchasing coordinator must provide the evaluation panel specific instructions of what their charge is, including any weight to be given to the evaluation factors. This should be done prior to a pre-proposal conference, but must be done prior to opening proposals.
- D. All pre-proposal conferences or site visits shall be mentioned in the RFP and any advertisement of it. If attendance at such a conference or site visit is a prerequisite for submitting a proposal, the public notice should usually be at least ten (10) days before the pre-proposal conference to provide adequate opportunity for potential offerors to obtain a copy of the RFP and attend.
- E. Addenda may be issued as determined necessary.
- F. A public opening of proposals will be done if practicable, but is not necessary. The names of the individuals or the names of firms submitting proposals in a timely manner is the only information that may be read aloud and made available to the offerors and general public unless otherwise provided in the RFP.
- G. At the discretion of the purchasing coordinator, the evaluation panel shall engage in individual discussions with two or more offerors (if deemed fully qualified, responsible, and suitable, with emphasis on professional competence, to provide the required services). Repetitive informal interviews shall be permissible. Such discussions may also include nonbinding estimates of total project costs, including but not limited to (where appropriate), design, construction and life-cycle costs. Nonbinding methods utilized in arriving at a price for services may also be discussed. Properly identified proprietary information from offerors shall not be disclosed to the public or to competitors unless required by law or a court.

- H. At the conclusion of discussions, on the basis of evaluation factors published in the RFP and all information developed in the selection process to this point, the evaluation panel shall select, in the order of preference, two or more offerors whose professional qualifications and proposed services are deemed most meritorious.
- I. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the Town can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on, until a contract can be negotiated at a fair and reasonable price. If the evaluation panel or purchasing coordinator determine in writing that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. At any time during the negotiations, the Town may terminate all negotiations, reject all proposals, and re-advertise the RFP. The reason for such termination should be made a part of the file.
- J. The Town Council, upon recommendation of the purchasing coordinator, will make the award, which will result in a contract incorporating the requirements, terms, and conditions of the contract as negotiated. Care should be taken to ensure that all points negotiated are properly documented and become part of the contract.
- K. Multiphase professional services contracts may be awarded based upon a fair and reasonable price for the first phase of a project.

3.2.2 Competitive negotiation for goods and nonprofessional services.

Competitive negotiation has the advantage of flexibility for describing in general terms what is being sought and the factors to be used in evaluating responses. This method of procurement is similar to the procurement of professional services and includes the following steps and some exceptions:

- A. Issuance of a written RFP indicating in general terms that which is to be procured, including the information set forth in 3.2.1(B) above. In addition, the RFP shall indicate whether a numerical scoring system will be used in the evaluation of the proposal. In the event that a numerical scoring system is used, the point values assigned to each of the evaluation criteria shall be included in the RFP or posted at the location designed for public posting of procurement notices prior to the due date and time for receiving proposals.
- B. If the procurement is for information technology, the RFP may not require the offeror to state any exception to liability provisions. For other offerors, it may require and exceptions to be in writing in the proposal and such exceptions may be considered during negotiations.
- C. The proposals are evaluated by an evaluation panel. As an option, evaluators may request presentations or discussions with offerors, as necessary, to clarify material in the offerors proposals, to help determine those fully qualified and best suited. Proposals are then evaluated on the basis of the criteria set forth in the RFP, using the scoring weights previously determined, if any. All RFP responses are to be evaluated. Offerors who fail to submit required documentation or meet mandatory

requirements may be eliminated from further consideration as non-responsive. Two or more offerors determined to be fully qualified and best suited, if that many, are then selected for negotiation. Price may be considered, but need not be the sole determining factor.

- D. Negotiations are then conducted with each of the offerors so selected. Negotiation allows modification of proposals, including price. Offers and counter-offers may be made as many times with each offeror as is necessary to secure a reasonable contract. After negotiations have been conducted with each of the selected offerors, the Town will select the offeror which, in its opinion, has made the best proposal, and the contract is awarded to that offeror. Once intent to award or an award notice is posted, no further negotiations shall be conducted.

3.3 Cooperative procurement.

The Town may participate in, sponsor, conduct, or administer a cooperative procurement on behalf of, or in conjunction with, one or more other public bodies, including, without limitation, agencies of the Commonwealth of Virginia, other states, and the United States Government.

3.3.1 Piggybacking.

The Town may purchase from another public body's contract provided that the RFP or IFB by which the contract was procured specifies that it was conducted on behalf of other public bodies. Piggyback procurement cannot be used for professional services contracts and certain construction contracts.

3.4 Prequalification.

Pursuant to Virginia Code § 2.2-4317(A)-(B):

- A. Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction, and consideration of bids or proposals may be limited to prequalified contractors. Any prequalification procedure shall be established in writing and sufficiently in advance of its implementation to allow potential contractors a fair opportunity to complete the process.
- B. Any prequalification of prospective contractors for construction by the Town shall be pursuant to a prequalification process for construction projects adopted by the Town. The process shall be consistent with the provisions of this section.

3.5 Term contracts.

Pursuant to Virginia Code § 2.2-4303.1, the Town may solicit to enter into term contracts with architectural and professional engineering firms for multiple construction projects provided: 1) the projects require similar experience and expertise; 2) the nature of the projects is clearly identified in the Request for Proposal; and 3) the contract is limited to a one-year term or when the cumulative total project fees reach the maximum cost authorized by law. Such contracts may be renewable for four additional one-year terms at the option of the Town. The fair and reasonable prices as negotiated shall be used in determining the cost of each project performed and the sum of all projects performed in a one-year contract term shall not exceed \$500,000. Competitive

negotiations for such contracts may result to awards to more than one offeror provided: 1) the RFP so states and 2) the Town has established procedures for distributing multiple projects among the selected contractors during the contract term. The fee for any single project shall not exceed \$150,000. Unused amounts from one contract term may not be carried forward to any additional term.

3.5.1 Procedure for distributing multiple projects.

Following the selection of more than one offeror for architectural or professional engineering services and execution of a term services contract with more than one offeror, multiple projects identified in the RFP published for the term services shall be awarded as follows:

- A. Selected offerors shall be notified in the manner set forth in the term services contract as projects become available.
- B. Once notified, selected offerors may submit a proposal for available project.
- C. Selected offerors shall be ranked for each project based upon the following criteria:
 - (1) Knowledge and experience concerning the scope and requirements for the project.
 - (2) Knowledge of the Town's overall goals concerning the project.
 - (3) Past performance on similar scopes of work within the Town.
 - (4) Order of ranking from initial proposals.
 - (5) Current work load or agreements in effect with the Town.
 - (6) Current work load on other non-Town projects.

Fees for services will be governed by procedures established by the participating funding agencies where applicable. Otherwise, fees for services will be negotiated on a schedule agreeable to the Town.

3.6 Job order contracting.

Pursuant to Virginia Code § 2.2-4303.2, the Town may award a job order contract for multiple jobs, provided (i) the jobs require similar experience and expertise, (ii) the nature of the jobs is clearly identified in the solicitation, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum provided by law. Such contracts may be renewable for two additional one-year terms at the option of the Town. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed \$5 million. Individual job orders shall not exceed \$500,000. Order slipping is prohibited and unused amounts may not be forwarded to any additional term. Job order contracting may not be used for professional architectural and engineering services unless the services (i) are incidental and directly related to the job, (ii) do not exceed \$25,000 per job order, and (iii) do not exceed \$75,000 per contract term.

3.7 Design-build and construction management contracts authorized; procedure.

Pursuant to Virginia Code § 2.2-4382, the Town may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that the Town complies with the following procedure:

- A. Prior to making a determination as to the use of construction management or design-build for a specific construction project, the Town shall have under its employ or under contract, a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the Town regarding the use of construction management or design-build for the project and (ii) assist the Town with the preparation of the request for proposal and evaluation of such proposals;
- B. The purchasing coordinator of the Town shall make a written determination in advance that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize construction management or design-build. The determination shall be included in the Request for Qualifications and be maintained in the procurement file;
- C. Construction management contracts may be utilized for projects where the project cost is expected to be more than \$10 million;
- D. Construction management contracts may be utilized for projects where the project cost is expected to be less than \$10 million, provided that (i) the project is a complex project and (ii) the project procurement method is approved by the Town Council. The written approval of the Council shall be maintained in the procurement file;
- E. The construction management contract must be entered into no later than the completion of the schematic phase of the design unless prohibited by authorization of funding restrictions;
- F. The Town must consider the experience of the contractor on comparable projects;
- G. The construction management contract shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, shall be performed by subcontractors of the construction manager, which the construction manager shall procure by publically advertised, competitive sealed bidding to the maximum extent possible;
- H. A two-step “request for qualifications/request for proposals” (RFQ/RFP) competitive negotiation process shall be utilized to select the construction manager;
 - (1) The RFQ shall include the Town’s facility requirements, building and site criteria, and survey data (if available). All offerors shall have a Class “A” licensed contractor in the Commonwealth of Virginia as part of the project team. The Town’s justification for using CMAR or DB shall be included in the RFQ.
 - (2) The criteria for evaluation shall be included in the RFQ, including any unique capabilities and qualifications and public notice of the RFQ shall be posted on the eVA website for a minimum of 30 days.
 - (3) The evaluation committee shall evaluate the firms’ RFQ responses by the criteria for the project and any other relevant information and determine those deemed best qualified. Prior CMAR shall not be a prerequisite for award.
 - (4) The RFQ process shall result in a short list of 2-5 offerors to receive an RFP. An offeror may be denied prequalification only as specified under Virginia

- Code § 2.2-4317, but the short list shall be those deemed best qualified.
- (5) At least 30 days prior to the date for the RFP response submission, those offerors that were not selected for the short list shall be provided written notification and the reasons for the decision. In the event that an offeror is denied prequalification, the written notification shall state the reasons for such denial including the factual basis for the reasons for denial.
 - (6) The evaluation committee shall evaluate and rank the firms' proposals. Prior CMAR experience shall not be a prerequisite for award.
 - (7) After evaluation and ranking, the evaluation committee shall conduct negotiations with two or more offerors submitting the highest ranked proposals.
 - (8) The contract shall be awarded to the offeror who is deemed fully qualified and price is the critical basis for the award of the contract;
 - (9) The Town shall notify all offerors who submitted proposals, which offer was selected for the project. When provided in the RFP, awards may be made to more than one offeror. Upon request, documentation of the process used for the final selection shall be made available to unsuccessful offerors.
- I. The award of design-build construction contracts shall also require a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department for state public bodies.
 - J. The Town shall comply with the reporting requirements set forth in Virginia Code § 2.2-4383(B).

Article IV. - Exceptions to competitive procurement.

4.0 In general.

The VPPA provides for exceptions to competitive procurement. Three types of exceptions covered here are sole source, emergency, and other exempt goods and services.

4.1 Sole source exception.

A contract may be awarded without competition when it is determined in writing, after conducting a good faith review of available sources, that there is only one source practicably available for the required good, service, insurance or construction item. Negotiations shall be conducted, as appropriate, to obtain the best price, delivery, and terms. A written notice shall be issued stating that only one source was determined to be practicably available, identify that which is being procured, the contractor selected and the date on which the contract will be awarded. For purchases exceeding Thirty Thousand Dollars (\$30,000), a notice of sole source shall be posted on the Town website or other website approved by the Town Manager or his/her designee, or the purchasing coordinator on the day of award or the decision to award is announced, whichever occurs first. Purchases of used equipment over Thirty Thousand Dollars (\$30,000) where only one (1) source is practicably available shall be treated as a sole source purchase.

4.1.1 Written determination.

A written determination documenting that there is only one source practicably available for the

procurement must be included in the procurement file.

An explanation of each of the following four points is required in the determination:

- A. Why this is the only product or service that can meet the needs of the Town;
- B. Why this vendor is the only practicably available source from which to obtain this product or service;
- C. Why the price is considered fair and reasonable; and
- D. The efforts that were made in conducting the noncompetitive negotiation to get the best possible price for the Town.

4.1.2 Sole source procurements of \$5,000 or greater.

For sole source procurements of \$5,000 or greater, a written quotation must be obtained from the vendor. All sole source procurements must also be approved in advance by the Town Manager or designee.

4.2 Emergency procurement.

An emergency may arise in order to protect personal safety, life or property, i.e., an occurrence of a serious, urgent and threatening nature that demands immediate action to avoid termination of essential services or a dangerous condition. In such cases, a Purchase Order or contract may be awarded by the Town without competitive bidding or competitive negotiation; however, such procurement shall be made with as much competition as is practicable under the circumstances. A written determination and justification must be made establishing the basis for the emergency and for the selection of the particular contractor/vendor. The written determination shall become part of the procurement file. For purchases with a total cost in excess of Thirty Thousand Dollars (\$30,000) a written notice, stating that the contract is being awarded, or has been awarded on an emergency basis shall be publicly posted on the Town website or other website approved by the Town Manager, or his/her designee, for ten (10) calendar days, beginning on the day of the award or the decision to award is announced, whichever occurs first, or as soon thereafter as is practicable.

Notwithstanding the foregoing, if an emergency occurs at times other than regular business hours, the concerned department may purchase directly the required goods or contractual services. The department making the purchase shall, however, whenever practicable, secure competitive telephone or written bids/quotes and order delivery to be made by the lowest responsible bidder. The department making the purchase shall also keep a tabulation of all quotes/bids received, if any, a copy of the delivery record and a written explanation of the circumstances of the emergency. The department shall notify the Town Manager, his/her designee, or the purchasing coordinator even if after the fact, of any emergency purchases made over Ten Thousand Dollars (\$10,000). In the event of any emergency which utilizes the Town of Christiansburg Emergency Operation Plan, documentation shall follow the guidelines of the most recent edition of that plan.

4.2.1 Documentation.

- A. **Written Determination.** A written determination indicating the nature of the

emergency and the reason for selection of the particular contractor must be placed in the procurement file.

- B. **Reporting Requirements.** Emergency notices of procurement under \$10,000 shall be filed in the procurement file. Emergency procurement notices of \$10,000 or greater shall be posted in a newspaper having general circulation in the Town's service area and may be posted on the Town's website.

4.2.2 Emergency planning.

In many cases, procurement planning can reduce the need for using emergency procedures. The Town should prepare and keep current a list of local sources of goods and services that might be needed in an emergency. Information on rates and charges should be established and agreed upon in advance. In addition, "as needed" annual contracts for various services may be competitively bid to expedite action, ensure adequate support, and reduce the cost of meeting emergency requirements.

4.3 Other – exempt goods and services.

The Virginia Public Procurement Act exempts several goods and services from the competitive sealed bidding and competitive negotiation procedures. These exempt goods and services are:

- Legal services
- Litigation related services, such as, expert witnesses and other services associated with litigation or regulatory proceedings.
- Insurance purchased through an association if the Town is a member and if the association was formed and is maintained for the purpose of promoting the interest and welfare of, and developing close relationships with, similar public bodies. The association must obtain the insurance using competitive principles.
- Goods produced or services performed by the disabled: Goods produced or services performed by the disabled, if produced or performed by persons, or in schools or workshops under the supervision of the Virginia Department for the Visually Handicapped or by nonprofit sheltered workshops or other nonprofit organizations which offer transitional or supported employment services serving the handicapped.
- Goods or services for recipients of certain public welfare programs.
- The purchasing coordinator may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

In addition, competition normally is either not practicable or available for purchase of the goods or services listed below. Therefore, when a department's estimated cost of goods or services is estimated to be \$50,000 or less for the entire duration of the requirements, purchases may be made upon receipt of a minimum of one written quotation. This section is in accordance with §2.2-4303 of the Virginia Code.

- A. Athletic Fees: Fees associated with participation in athletic tournaments and events

- including registration and game guarantees for all athletic events.
- B. Athletic Officials/Referee: Umpires, referees, and other sports officials to officiate competitive athletic and sporting events sponsored by the Town of Christiansburg. The services include observing the play, detecting infractions of rules, and imposing penalties established by the rules and regulations of the various sports.
 - C. Books, printed materials, reprints and subscriptions: Books, printed materials, reprints, and subscriptions (e.g., print or electronic), pre-recorded audio and video material (in any media), when only available from the publisher/producer.
 - D. Copyright/Royalty Fees: Purchase of the exclusive legal right to reproduce, publish, sell, or distribute the matter and form of something (as a literary, musical, or artistic work, ASCAP).
 - E. Dues and Professional Licenses: Professional organization membership dues and fees to maintain professional licenses.
 - F. Honoraria/Entertainment: Payment for a service (e.g., making a speech) such as authors, speakers, lecturers, musicians, performing artists.
 - G. License Agreements: License agreements with the owner of the source code for existing software and/or manufacturer of sophisticated scientific equipment.
 - H. Media Purchases: Advertisements and legal notices such as in newspapers, magazines, journals, radio, television, etc.
 - I. Other Agencies: purchases from the federal government, other states and their agencies or institutions, and public bodies. Care must be exercised to verify pricing as fair and reasonable.
 - J. Training provided by professional organization: Classes, workshops, or conferences provided by a professional organization rather than a training vendor or individual. This exemption is limited to organizations that are associated with professional accreditation or certification.
 - K. Specialized training: Training that is specialized, proprietary, and not typically available to the general public for which competition is generally unavailable. Specialized technical training provided by a vendor for their equipment is included in this category.

Article V. - Contracts.

5.0 In general.

A standard Town contract should be used for most procurement. A contractor's standard contract form should not be used. If it is not possible to award a contract without using the contractor's contract form, the contract must be reviewed and approved by the Town's attorney.

5.1 Contract Award Approval.

No contract shall be entered in to without the approval of the Town Manager. Any Purchase Order over \$10,000 must be approved by the Town Manager. The Purchasing Coordinator may sign any Purchase Order less than \$10,000 if the expenditure has been approved by requisition by the Department Director or the Town Manager or, his/her designee.

5.2 Unauthorized Purchases.

Any Town of Christiansburg officer or employee making or approving a purchase contrary to the provision of this Policy or the Purchasing Procedures/Regulations shall be subject to disciplinary action, up to and including termination, as determined by the Town Manager, or his/her designee.

5.3 Competitive Bidding or Competitive Negotiation on State-Aid Projects.

No contract for the construction of any building or for an addition to or improvement of an existing building by the Town of Christiansburg for which state funds of not more than \$50,000 in the aggregate or for the sum of all phases of a contract or project, either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under Section VI (A and B). The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to the Virginia Public Procurement Act, (§ 2.2-4300 et seq.).

5.4 Authority to transact business in Virginia.

- A. If required by law, any awarded bidder or offeror shall maintain a valid certificate of authority or registration to transact business in Virginia with the Virginia State Corporation Commission as required by Title 13.1 or Title 50 of the Virginia Code, during the term of the contract or any contract renewal. The contractor as awarded shall not allow registration to lapse at or its certificate of authority or registration to transact business in the Commonwealth of Virginia to be revoked or cancelled at any time during the term(s) of the contract. If the awarded contractor fails to remain in compliance with the provisions of this section, the contract may be voided at the sole discretion of the Town of Christiansburg.
- B. If required by Town of Christiansburg Code, any awarded bidder or offeror shall maintain a valid Town of Christiansburg Business License, or other business license accepted by the Town of Christiansburg per Town of Christiansburg and Virginia Codes, during the term of the contract or any contract renewal. The contractor as awarded shall not allow its business license to lapse, to be revoked or cancelled at any time during the term(s) of the contract. If the awarded contractor fails to remain in compliance with the provisions of this section, the contract may be voided at the sole discretion of the Town of Christiansburg.

5.5 Contract modifications, amendments, and change orders.

- A. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or \$50,000, whichever is greater, without the advance written approval of the Town Council. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of a bidder or offeror from the consequences of an error in its bid or offer.
- B. The Town may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

- C. Nothing in this section shall prevent any Town from placing greater restrictions on contract modifications.

5.6 Contract pricing arrangements.

- A. Except as prohibited in this section, contracts may be awarded on a fixed price or cost reimbursement basis, or on any other basis that is not prohibited.
- B. Except in case of emergency affecting the public health, safety or welfare, no contract shall be awarded on the basis of cost plus a percentage of cost.
- C. A policy or contract of insurance or prepaid coverage having a premium computed on the basis of claims paid or incurred, plus the insurance carrier's administrative costs and retention stated in whole or part as a percentage of such claims, shall not be prohibited by this section.

5.7 Contractor license requirements.

State statutes and regulatory agencies require that some contractors be properly registered and licensed, or hold a permit, prior to performing specific types of services. It is the contractor's responsibility to comply with the rules and regulations issued by state regulatory agencies. The following statement should appear on solicitations for regulated services.

“By my signature on this solicitation, I certify that this firm/individual is properly licensed for providing the goods/services specified and that any subcontractor used on the job will also be properly licensed.”

5.8 Insurance.

Whenever work is to be performed on Town owned or leased property or facilities, the contractor may be required to have Workers' Compensation, Employer's Liability, Commercial General Liability and Automobile Liability, and in certain types of professional services contracts, Professional Liability/Errors and Omissions insurance coverage. The Town must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage. In some cases, Workers' Compensation Insurance and Employer's Liability Insurance may not be required. Workers' Compensation insurance is required when the contractor has three (3) or more employees. If any subcontractors are involved, subcontractors may also be required to have Workers' Compensation Insurance in accordance with §§ 2.2-4332 and 65.2-800, et seq., such insurance must be obtained prior to commencing work and be maintained during the entire term of the contract. Certification of insurance shall be in writing when written quotes are required. The certificate of insurance must be furnished **prior to commencement of work.**

5.9 Mandatory contract provisions.

The following provisions shall be included in every contract unless the VPPA provides otherwise:

- A. **Compliance with immigration laws.**

During the term of this Contract, Contractor agrees that, pursuant to Virginia Code § 2.2-4311.1, Contractor does not, and shall not during the performance of this Contract for goods and services in the Commonwealth knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

B. Compliance with state law regarding transacting business in the Commonwealth.

Pursuant to Virginia Code § 2.2-4311.2, Contractor shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia (1950), as amended, or as otherwise provided by law. Contractor shall not allow its existence to lapse or its certificate of Town to be revoked or cancelled at any time during the term of this contract. The Town may void this Contract if Contractor fails to remain in compliance with the provisions of this section.

C. Drug Free Workplace.

Pursuant to Virginia Code § 2.2-4312, during the performance of this Contract, Contractor agrees to (i) provide a drug-free workplace for Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purpose of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to Contractor or a subcontractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.

D. Nondiscrimination.

Pursuant to Virginia Code § 2.2-4311:

- (1) Contractor will not discriminate against any subcontractor, employee, or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Contractor's business. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- (2) Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor, will state that Contractor is an equal employment opportunity employer.

- (3) Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- (4) Contractor will include the provisions of the foregoing paragraphs 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

E. **Prompt payment.**

Pursuant to Virginia Code § 2.2-4354:

- (1) Within seven (7) days after receipt of amounts paid to Contractor by the Town:
 - (a) Contractor will pay subcontractor, if any, for the proportionate share of the total payment received from the Town attributable to the work performed by subcontractor under the Contract; or
 - (b) Notify Town and subcontractor, if any, of Contractor's intention to withhold all or a part of subcontractor's payment with the reason for nonpayment.
- (2) Contractor shall provide its federal employer identification number to the Town.
- (3) Contractor shall pay interest to the subcontractor, if any, on all amounts owed to subcontractor that remain unpaid after seven (7) days following receipt by Contractor of payment from the Town for work performed by subcontractor under the Contract, except for amounts withheld as allowed in section 1(b) above.
- (4) Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one (1) percent per month.
- (5) Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include the same payment and interest requirements as set forth herein with respect to each lower-tier subcontractor, if any.
- (6) Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section shall not be construed to be an obligation of Town.

F. **Contract Claims.**

The Town shall include in its contracts a procedure for consideration of contractual claims. Such procedure, which may be contained in the contract or may be specifically incorporated into the contract by reference and made available to the contractor, shall establish a time limit for a final decision in writing by the Town. If the Town has established administrative procedures meeting the standards of Virginia Code § 2.2-4365, then such procedures shall be contained in the contract or specifically incorporated in the contract by reference and made available to the contractor.

If, however, the Town fails to include in its contracts a procedure for the consideration of contractual claims, the following procedure shall apply:

- (1) Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after receipt of final payment; however, written notice of the contractor's intention to file a claim shall be given at the time

of the occurrence or at the beginning of the work upon which the claim is based.

- (2) No written decision denying a claim or addressing issues related to the claim shall be considered a denial of the claim unless the written decision is signed by the Town Manager or designee. The contractor may not institute legal action prior to receipt of the final written decision on the claim unless the Town fails to render a decision within 90 days of submission of the claim. Failure of the Town to render a decision within 90 days shall not result in the contractor being awarded the relief claimed or in any other relief or penalty. The sole remedy for the Town's failure to render a decision within 90 days shall be the contractor's right to institute immediate legal action.

5.10 Multi-term contracts.

- A. Specified Period. Unless otherwise provided by law, a contract for goods, services or insurance may be entered into for any period of time deemed to be in the best interest of the Town of Christiansburg provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.
- B. Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled.

5.11 Retainage on construction contracts.

- A. In accordance with § 2.2-4333 of the Code of Virginia, in any contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least ninety-five percent (95%) of the earned sum when payment is due, with not more than five (5%) being retained to assure faithful performance of the contract. All amounts withheld may be included in the final payment.
- B. Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.
- C. Nothing in this section shall preclude the establishment of retention for contracts other than construction.

5.12 Bid Bonds on Construction Contracts.

Except in cases of emergency, all bids or proposals for construction contracts in excess of One Hundred Thousand Dollars (\$100,000) shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in Virginia, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent (5%) of the amount

bid. Nothing in this section shall preclude a requirement of bid bonds to accompany bids or proposals for construction contracts anticipated to be less than One Hundred Thousand Dollars (\$100,000).

No forfeiture under a bid bond shall exceed the lesser of (i) the difference between the bids for which the bond was written and the next low bid, or (ii) the face amount of the bid bond.

5.13 Performance and Payment Bonds for Construction Contracts.

A. Upon the award of any construction contract exceeding One Hundred Thousand Dollars (\$100,000) awarded to any prime contractor or as otherwise required in § 2.2-4337 of the Virginia Code, such contractor shall furnish to the Town of Christiansburg the following bonds:

- (1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.
- (2) A payment bond in the sum of the contract amount. Such bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in the performance of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the performance of the work. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.
- (3) Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in Virginia.
- (4) Bonds shall be made payable to the Town of Christiansburg as appropriate.
- (5) Each of the bonds shall be filed in the contract file.
- (6) Nothing in this section shall preclude the Town of Christiansburg from requiring payment or performance bonds for construction contracts below One Hundred Thousand Dollars (\$100,000).
- (7) Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the performance of the work provided for in the subcontract.

5.14 Action on Performance Bonds.

In accordance with § 2.2-4340 of the Code of Virginia, no action against the surety on a performance bond shall be brought unless brought within one year after (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty, that give rise to the action.

5.15 Action on Payment Bonds.

- A. Any claimant who has a direct contractual relationship with the contractor and who has performed labor or furnished material in accordance with the contract documents in the performance of work provided in any contract for which a payment bond has been given, and who has not been paid in full before the expiration of ninety (90) days after the day on which such claimant performed the last of the labor or furnished the last of the materials for which he claims payment, may bring an action on the payment bond to recover any amount due him for the labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.
- B. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 90 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished.

Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where its office is regularly maintained for the transaction of business. Claims for sums withheld as retainage with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.

- C. Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.
- D. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

5.16 Alternative Forms of Security.

- A. In accordance with § 2.2-4338 of the Virginia Code, in lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.
- B. If approved by the Town of Christiansburg Attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the Town of Christiansburg equivalent to a corporate surety's bond.

5.17 Bonds for Other than Construction Contracts.

At the discretion of the Town of Christiansburg bidders may be required to submit with their bid, a bid bond in an amount previously determined and specified in the Invitation to Bid, as a guarantee that if the contract is awarded to such bidder, that the bidder will enter into the contract for the work mentioned in the bid. Additionally, the Town of Christiansburg may require bid, payment, or performance bonds for contracts for goods or services if provided in the Invitation for Bid or Request for Proposal.

5.18 Construction Contract Terms.

All construction contracts shall use standard American Institute of Architects (AIA) or Engineers Joint Contract Documents Committee (EJCDC) contract language and contract terms and conditions as may be modified to include supplementary conditions and appropriate provisions of Virginia Code and/or federal regulations including, but not limited to, Title 2 of the Code of Federal Regulations, Part 200 [2 CFR 200.317-326] as approved by the Town Attorney, Town Manager, or his designee.

Article VI. – Notices and Public Access to Procurement Records.

6.0 In general.

This Article addresses the requirements for posting public notices of solicitations and contract awards and also explains what documents are required to be produced and when certain documents may be produced upon the request for such documents under Virginia's Freedom of Information Act.

6.1 Publicly posted notices.

All solicitation, addenda, and award actions over \$30,000 shall be posted in a newspaper having general circulation in the Town's service area and posted on the Town's website, Department of General Services' purchasing website, or other appropriate website.

- A. Written solicitation notices over \$30,000 must be posted for the time period established in the solicitation, e.g., 3 days, 6 days, 10 days, etc., for receipt of unsealed bids or unsealed proposals. Notices shall indicate pre-bid conferences or site visits when applicable. When canceling or amending a solicitation, a copy of the notice or addendum must be posted on the Town's website.
- B. IFB solicitation notices over \$100,000 must be published at least 10 days prior to the date set for receipt of bids.
- C. When issuing RFPs estimated to be over \$60,000, the solicitation notice shall be published at least 10 days prior to the date set for receipt of proposals. The newspaper notice need only be a brief summary of essential elements of information. Pre-proposal conferences or site visits should be indicated on the cover sheet of the solicitation when applicable. When canceling or amending a solicitation, a copy of the notice or addendum must be publicly posted on the Town website.
- D. Award notices over \$30,000 must be posted for 10 calendar days immediately following the actual time of award. The award notice should be posted on the Town's website and in any additional locations as prescribed in the solicitation for

10 calendar days immediately following the actual time of award.

6.2 Public access to procurement records.

- A. Except as provided in this section, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Virginia Code §§ 2.2-3700, et seq.).
- B. Cost estimates relating to a proposed procurement transaction prepared by or for the Town shall not be open to public inspection until after the contract award.
- C. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the Town decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract.
- D. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the Town decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.
- E. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
- F. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

NOTE: The procurement records must be available for review by any bidder or offeror at the time a Notice of Intent to Award or an Award Notice is posted.

Article VII. – Debarment.

7.0 In general.

The term "debarment" as used in this Manual means action taken by the Town to exclude individuals or firms from contracting with the Town for particular types of goods or services for specified periods of time. Debarment does not relieve the vendor of responsibility for existing obligations.

7.1 Purpose.

The purpose of debarment is to protect the Town from risks associated with awarding contracts to persons or firms having exhibited an inability or unwillingness to fulfill contractual requirements, and to protect Town interests and the integrity of the Town's procurement process.

7.2 Reasons for debarment.

An individual or firm may be debarred for any of the following reasons:

- A. Breach of contract with the Town. Breach of contract may consist of abandonment of the contract or the commission of acts or conduct which demonstrates a failure to perform under the contract.
- B. Stating an unwillingness or inability to honor a binding bid submitted to the Town. A request to withdraw a bid, which does not otherwise state an unwillingness or inability to perform, is not a cause for debarment.
- C. Failing to complete a contract without cause within the prescribed time limit. Prescribed time limit means original contract time period plus any authorized time extensions.
- D. Falsifying or misrepresenting manufacturer's specifications in order to appear responsive to a bid solicitation.
- E. Taking any action constituting a violation of the State and Local Government Conflict of Interests Act, by virtue of any officer, director, owner, or partner of the vendor also being an officer or employee of the Town and having a "personal interest" in contract or purchase order awarded by the Town.
- F. Conviction of any criminal offense involving public contracting.
- G. Court judgment finding a violation of either federal or state anti-trust laws.
- H. Conviction of any offense indicating a lack of moral or business integrity.

Note: It is not necessary that there be a judicial determination of violations contained in subparagraphs A through E for debarment to occur.

7.3 Term of debarment; suspending debarment.

Debarment shall be for a period of no less than one and not more than three years, as determined by the discretion of the Town Council. Notwithstanding the prescribed duration of the debarment, at the discretion of the Town Council, a debarment may be lifted or suspended at any time if it is deemed to be in the best interest of the Town. A debarred individual or firm can apply for reinstatement at any time in writing to the Town citing actions taken to remedy the reason for debarment or prevent recurrence of the situation that caused the debarment action to be taken and otherwise indicating the lifting or suspending of the debarment would be in the best interest of the Town. Examples of actions that the Town Council may take into consideration include, but are not limited to:

- A. Repayment by a debarred vendor of damages and additional cost resulting from a default action for which the vendor had previously failed to reimburse the Town and was debarred.
- B. Disassociation with the individuals or firms responsible for the debarment.

7.4 Notification.

An individual or firm being considered for debarment from contracting with the Town will be notified in writing by certified mail, return receipt requested. The notice shall state the

reasons for the action taken, the duration of the period of debarment and the effective date. This decision shall be final, unless the bidder, offeror, or contractor appeals within thirty (30) calendar days of receipt of the notice by written request to the purchasing coordinator or, in the alternative, by instituting legal action.

Article VIII. – Protest of contract awards.

The VPPA sets forth procedures for resolving several types of disputes that may arise between the Town and contractors. The procedures vary and reference is made to the VPPA for specifics.

Article IX. – Assistance to small and disadvantaged businesses:

9.0 Small, Women-, Minority-, and Service Disabled Veteran-Owned Business Participation.

The Town shall cooperate with state and federal agencies to facilitate the participation of small, women-, minority-, and service disabled veteran-owned businesses in the procurement transactions of the Town of Christiansburg. The Town of Christiansburg grants no preferences or set-asides to such businesses. The Town Manager, or designee, shall assist any such business in completing or understanding bids or proposals. Procedures may be established to increase participation by small-, women-, minority- and service disabled veteran-owned businesses.

When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory federal law and regulation, which is not reflected in this Policy including, but not limited to Title 2 of the Code of Federal Regulations, Part 200 [2 CFR 200.317-326] . See Exhibit A attached hereto.

9.1 Discrimination prohibited.

In the solicitation or awarding of contracts, the Town of Christiansburg shall not discriminate against any bidder or offeror because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran or other basis prohibited by state or federal law relating to discrimination in employment.

Article X. – Ethics in public contracting.

10.0 In general.

Our system of government is dependent in large part on its citizens maintaining the highest trust in their public officials. The conduct and character of public officials is of particular concern to state and local governments, because it is chiefly through that conduct and character that the government's reputation is derived. Therefore, public officers and employees must be familiar with the State and Local Government Conflict of Interests Act ("COIA").

10.1 Purpose.

The purpose of COIA (Virginia Code §§ 2.2-3100, et seq.) is to assure the citizens of the

Commonwealth that the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts. The Attorney General has stated that COIA provides minimum rules of ethical conduct for state and local government officers and employees and contains three general types of restrictions and prohibitions: (1) it details certain types of conduct that are improper for such officers and employees; (2) it restricts the ability of such officers and employees to have personal interests in certain contracts with their own or other governmental agencies; and (3) it restricts the participation of such officers and employees in transactions of their governmental agencies in which they have a personal interest.

10.2 Definitions.

Immediate family: means a spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee.

Official responsibility: means administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove, or otherwise affect a procurement transaction, or any claim resulting therefrom.

Pecuniary interest arising from the procurement: means a personal interest in a contract as defined in the State and Local Government Conflict of Interests Act.

Procurement transaction: means all functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Public employee: means any person employed by the Town, including its Council members, officers, or employees.

10.3 Proscribed participation by public employees in procurement.

No public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the Town when the employee knows that:

- A. The employee is also currently employed by a bidder, offeror, or contractor involved in the procurement transaction;
- B. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;
- C. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or
- D. The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

10.4 Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror, or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the Town unless the employee or former employee provides written notification to the Town prior to commencement of employment by that bidder, offeror, or contractor.

10.5 Prohibition on solicitation or acceptance of gifts.

- A. No public employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The Town may recover the value of anything conveyed in violation of this subsection.
- B. No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

10.6 Kickbacks.

- A. No contractor or subcontractor shall demand or receive from any of its suppliers or its subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services, or anything present or promised, unless consideration of substantially equal or greater value is exchanged.
- B. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.
- C. No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services, or anything of value in return for an agreement not to compete on a public contract.
- D. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the Town and shall be recoverable from both the maker and recipient.
Recovery from one offending party shall not preclude recovery from other offending parties.

10.7 Participation in bid preparation.

No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of the Town shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement that is not available

to the public. However, the Town may permit such person to submit a bid or proposal for that procurement or any portion thereof if the Town determines that the exclusion of the person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the Town.

10.8 Purchase of materials from architect or engineer prohibited.

- A. No building materials, supplies or equipment for any building or structure constructed by or for the Town shall be sold by or purchased from any person employed as an independent contractor by the Town to furnish architectural or engineering services, but not construction, for such building or structure or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in Virginia Code § 2.2-3101.
- B. No building materials, supplies or equipment for any building or structure constructed by or for the Town shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies or equipment to be used in the building or structure to the independent contractor employed by the Town to furnish architectural or engineering services in which such person has a personal interest as defined in Virginia Code § 2.2-3101.
- C. The provisions of subsections A and B shall not apply in cases of emergency or for transportation-related projects conducted by the Department of Transportation or the Virginia Port Authority.

10.9 Certification of compliance required; penalty for false statements.

- A. Public bodies may require public employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this article.
- B. Any public employee required to submit a certification as provided in subsection A who knowingly makes a false statement in the certification shall be punished as provided in Virginia Code § 2.2-4377.

10.10 Misrepresentations prohibited.

No public employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing it to contain any false, fictitious or fraudulent statement or entry.

10.11 Penalty for violation.

Any person convicted of a willful violation of any provision of this article shall be guilty of a Class 1 misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his or her employment.

Article XI. – Surplus property.

11.0 In general.

Tangible personal property owned by and no longer needed by the Town is to be considered surplus property.

11.1 Authorization to dispose of surplus property.

The purchasing coordinator is authorized to sell or otherwise dispose of surplus personal property with a value of \$10,000.00 or less without Town Manager approval. Surplus property with a value in excess of \$10,000.00 shall require Town Manager approval prior to its sale or disposal.

11.2 Disposal.

The purchasing coordinator shall use one of the following methods of disposal:

- A. Sale to a state agency or political subdivision;
- B. Public sale or auction;
- C. Donation (with approval of the Town Manager);
- D. Trade-in;
- E. Abandonment or destruction (with approval of the Town Manager).

Upon the sale or transfer of surplus property, the purchasing coordinator is authorized to execute and deliver any applicable bill of sale and title documents. The Town's Finance Department shall keep a record of all property sold, to whom it was sold, and the amount of money or consideration received from the sale.

11.3 Delegation of authority and establishment of procedure.

The Town Manager may delegate such authority and establish such rules and procedure as he or she deems necessary for the administration of surplus property sales pursuant to this policy.



**TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET**

AGENDA LOCATION:

Public Hearing/Discussion and Action by Mayor and Council

Meeting Date:

April 24, 2018

ITEM TITLE:

Agreement to Amend Montgomery Regional Solid Waste Authority Articles of Incorporation and Extend the User Agreement.

DESCRIPTION:

The Montgomery Regional Solid Waste Authority (MRSWA) was formed in 1994 through an agreement between the Towns of Blacksburg and Christiansburg, Montgomery County, and Virginia to facilitate the disposal of solid waste. The members contribute to the Authority through their tipping fees per load at the MRSWA facility. The Board desires to amend the Articles of Incorporation to provide for staggered board terms to help ensure continuity as the five board representatives are appointed, one by each locality, with an at-large board position as well. The board also desires to extend the individual user agreements, which are currently set to expire June 30, 2025, to June 30, 2040.

POTENTIAL ACTION:

Hold Public Hearing, Discussion and Action by Mayor and Council

DEPARTMENT(S):

Administration

PRESENTER:

Randy Wingfield, Town Manager

Information Provided:

- MRSWA Articles of Incorporation – 1994
- MRSWA User Agreement – 1995
- MRSWA Articles of Amendment
- MRSWA Extended User Agreement
- Resolution to Approve Agreement Amending MRSWA Articles of Incorporation and Extend User Agreement

Articles of Incorporation of Montgomery Regional Solid Waste Authority

In compliance with the Virginia Water and Sewer Authorities Act, Chapter 28 of Title 15.1 of the Code of Virginia, as amended (the "Act"), the undersigned who are the governing bodies of the incorporating political subdivisions have determined, after public hearing on the question of adoption of a resolution and agreement creating and setting forth the articles of incorporation of Montgomery Regional Solid Waste Authority, a public body politic and corporate created pursuant to the Act, as follows:

1. The name of the authority shall be "Montgomery Regional Solid Waste Authority" and the address of its principal office is P.O. Box 806, Christiansburg, Virginia, 24073.
2. The name of each incorporating political subdivision is:

Montgomery County, Virginia
Town of Blacksburg, Virginia
Town of Christiansburg, Virginia
Virginia Polytechnic Institute and State University

3. There shall be five (5) members of the Board of the Authority who shall exercise the powers of the Authority to be appointed as follows: each incorporating political subdivision shall appoint one member to represent such political subdivision and one member shall be appointed jointly by the governing bodies of each incorporating political subdivision. The names, addresses and terms of office of the first members of the Board of the Authority are as follows:

<u>Name</u>	<u>Address</u>	<u>Terms of Office</u>
(1) John E. Lemley	P.O. Box 599 100 East Main St. Christiansburg, VA 24073	June 30, 1998
(2) Adele P. Schirmer	P. O. Box 9003 300 South Main St. Blacksburg, VA 24062-9003	June 30, 1998
(3) F. Spencer Hall	Virginia Polytechnic Institute & State Univer- sity Campus 112 Maintenance Building Blacksburg, VA 24061	June 30, 1998


(4) Joseph V. Gorman, Jr. 402 Hearthstone June 30, 1998
Drive, NE
Blacksburg, VA 24060

(5) L. Allen Bowman 1213 North Main Street June 30, 1998
Blacksburg, VA 24060

4. Upon the expiration of the original term of office of the members herein set forth, members representing the respective incorporating political subdivision shall be appointed by their respective governing bodies and the at-large member shall be appointed jointly by all governing bodies, each for terms of four (4) years, each successor member so appointed to represent his respective incorporating political subdivision or at large, as appropriate, until the expiration of such member's term, and until such member's successor shall have been duly appointed and qualified. Any vacancy in the membership of the Authority other than by expiration of term shall be filled by the respective governing body (or as to the at-large member, by all of the governing bodies, jointly) by the appointment of a member to fill such vacancy for the unexpired term only. The term of office of the members named herein shall begin on the date that the certificate of incorporation is issued by the State Corporation Commission of the Commonwealth of Virginia.
5. The purpose for which the Authority is to be created is the acquisition, construction, equipping and operation of a garbage and refuse collection and disposal system as defined in the Act and to have all powers and duties of such authorities as provided by the Act, including but not limited to acquiring, purchasing, leasing, constructing, reconstructing, improving, extending, operating, maintaining and financing a garbage and refuse collection and disposal system, transporting garbage and refuse from transfer stations and/or disposal sites, recycling systems and composting systems. The Authority shall not undertake collection of garbage and refuse for any incorporating political subdivision unless the governing body of such incorporating political subdivision approves thereof. The area to be served by the Authority shall be within the legal boundaries of Montgomery County, which include but are not limited to the legal boundaries of the Town of Christiansburg, the Town of Blacksburg and the campus or property of Virginia Polytechnic and State University, and any enlargements thereof hereafter provided. Pursuant to Section 15.1-1242(B) of the Act, the governing bodies of each incorporating political subdivision have found that it is impracticable to set forth herein the capital cost estimates, project proposals and project service rate estimates.

IN WITNESS WHEREOF, the Board of Supervisors of Montgomery County, Virginia, by its Chairman, the Town Council of the Town of Blacksburg, Virginia, by its Mayor, the Town Council of the Town of Christiansburg, Virginia, by its Mayor, and the Board of Visitors of Virginia Polytechnic Institute and State University, by its Executive Vice President have caused the articles of incorporation to be executed, and their respective seals to be affixed hereto and attested by their respective clerks or secretaries this 8th day of December, 1994.

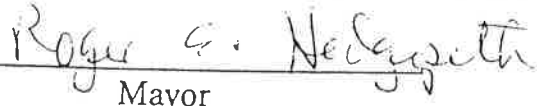
MONTGOMERY COUNTY, VIRGINIA

By: 
Chairman

ATTEST:


Clerk

TOWN OF BLACKSBURG, VIRGINIA

By: 
Mayor

ATTEST:


Clerk

TOWN OF CHRISTIANSBURG, VIRGINIA

By: Harold G. Linker
Mayor

ATTEST:

Imogene H. Brumfield
Clerk

VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY

By: William R. Kattappa
Executive Vice President

ATTEST:

William R. Kattappa
Secretary

December 14, 1994

The accompanying Articles of Incorporation having been delivered to the State Corporation Commission by the Board of Supervisors of Montgomery County, Virginia; the Town Council of the Town of Blacksburg, Virginia; the Town Council of the Town of Christiansburg, Virginia; and the Board of Visitors of Virginia Polytechnic Institute and State University, on behalf of the Montgomery Regional Solid Waste Authority, and the Commission having found the Articles of Incorporation to comply with the requirements of law, it is

ORDERED that this CERTIFICATE OF INCORPORATION be issued and that this Order together with the Articles, be admitted to record in this office.

STATE CORPORATION COMMISSION

By 
Commissioner

Commonwealth of Virginia



State Corporation Commission

I Certify the Following from the Records of the Commission:

the foregoing is a true copy of all documents constituting the charter of Montgomery Regional Solid Waste Authority.

Nothing more is hereby certified.



Signed and Sealed at Richmond
on this Date: December 15, 1994

William J. Bridge
William J. Bridge, Clerk of the Commission

USER AGREEMENT

THIS USER AGREEMENT (the "Agreement") dated the 20th day of June, 1995, is made by and between the MONTGOMERY REGIONAL SOLID WASTE AUTHORITY (the "Authority"), and the TOWN OF CHRISTIANBURG (the "User").

WITNESSETH:

WHEREAS, the Authority intends to acquire certain real and personal property connected with the Mid-County Landfill presently owned and operated by Montgomery County (the "Mid-County Landfill") and to otherwise provide, furnish and contract for solid waste Disposal Services and Recycling Services and take other actions as allowed by law; and

WHEREAS, the Authority desires execution of this Agreement prior to acquiring the Mid-County Landfill or providing any solid waste Disposal Services or Recycling Services.

NOW, THEREFORE, in consideration of the following mutual agreements and covenants, it is understood and agreed by and between the parties hereto as follows:

ARTICLE I PURPOSE

1. This Agreement is entered into pursuant to the authorization of the Virginia Water and Sewer Authorities Act (Chapter 28 of the Code of Virginia, 1950 as amended), and other applicable law.
2. The User agrees to utilize the Authority's Disposal Services and Recycling Services, and the Authority agrees to provide the same, according to the terms and conditions of this Agreement.

ARTICLE II DEFINITIONS

Bonds. Revenue bonds issued or assumed by the Authority, which were issued or which may be issued to obtain funds to pay the cost of any Disposal Facility, Disposal Services, Recycling Facility or Recycling Services, including any note or other obligation issued for such purpose, and including any bonds issued for purposes of refunding, advance refunding or defeasing any bonds described as County of Montgomery, Virginia \$3,435,000 Solid Waste Management Revenue Bonds Series 1992.

Collector or Transporter. Any person or entity engaged in the act or business of picking up, collecting, or transporting Solid Waste or Recyclables.

Disposal Facility. A site, depository or facility used by the Authority for Disposal Services.

Disposal Services. Engaging in the processing or final disposal of Solid Waste, or engaging in the processing or final disposal of Special Wastes after specific approval of such processing or final disposal by the governing body of the Authority, through utilizing sanitary landfills, transfer stations, mass composting facilities, mixed waste processing separation centers or any other facilities or means allowed by law; Disposal Services do not include acts of a person or entity when acting as a Collector or Transporter.

Force Majeure. Any cause beyond the reasonable control of the party whose performance is affected including but not limited to acts of God, war, riot, fire, explosion, wind storm, flood, labor disputes, inability to obtain or use fuel, power, or raw materials, shortage or failure of the usual means of transportation, injunction, action by governments or agencies thereof not party to this Agreement, accident, or breakdown of machinery or equipment.

Hazardous Waste. Waste designated as hazardous by applicable federal or state laws, rules, regulations, permits or requirements in effect at the time or place of disposal.

Recyclables. All newspapers, mixed paper, cardboard, office and computer paper, green, amber and clear glass jars and bottles; metal food and beverage cans (aluminum, steel, bi-metal and tin-plated steel), aluminum foil wrap and foil containers, HPDE and PETE plastic bottles and containers and such other material as the parties may agree to in writing.

Recycling Facility. A site, depository or facility used by the Authority for Recycling Services.

Recycling Services. Engaging in the processing or reclamation of Recyclables.

Service Fees. Sums charged for Disposal Services and Recycling Services provided by or through the Authority, collectable from the User.

Solid Waste. All material customarily referred to as such in Virginia Department of Environmental Quality ("DEQ") Solid Waste Management Regulations or other rules or regulations of DEQ or a successor agency thereto, including but not necessarily limited to garbage, refuse, rubbish, debris and other discarded material resulting from residential, industrial, commercial or agricultural processes and operations or from community activities exclusive of Unacceptable Waste and Hazardous Waste.

Special Wastes. All material customarily referred to as such in DEQ Solid Waste Management Regulations or other rules or regulations of DEQ or a successor agency

thereto, including but not necessarily limited to Solid Waste that is difficult to handle, requires special precautions because of hazardous properties or the nature of the wastes creates waste management problems in normal operations.

Unacceptable Waste. Any material, the disposal of which would violate applicable federal or state laws, rules, regulations, permits or requirements in effect at the time or place of disposal.

ARTICLE III TERM OF AGREEMENT

The term of this Agreement shall be for a thirty (30) year period, beginning July 1, 1995 and terminating June 30, 2025.

ARTICLE IV GENERAL CONDITIONS OF AGREEMENT UPON THE USER

1. The User grants and assigns to the Authority during the term of this Agreement all rights which the User may have to provide any and all Disposal Services and Recycling Services, including but not limited to landfill, transfer station or other services relating to the disposal of Solid Waste and the processing or reclamation of Recyclables. The User represents and warrants that it has the authority to grant such rights to the Authority. The User represents and warrants that during the term of this Agreement it will neither contract with other individuals or entities regarding the provision of any Disposal Services or Recycling Services nor itself engage in any Disposal Services or Recycling Services, and that if User contracts for services provided by any Collector or Transporter it shall require such Collector or Transporter to exclusively utilize, to the greatest extent possible, Disposal Services and Recycling Services provided by the Authority for all Solid Waste and Recyclables generated or collected within the area under the jurisdiction of the User's governing body. The parties agree that the Authority is not presently authorized to accept Hazardous Waste, and nothing in this Agreement shall be construed to require the User to utilize any facility owned or operated by the Authority for the disposal of Hazardous Waste or to prevent the User from contracting with any person or entity other than the Authority for the disposal of Hazardous Waste.

2. The User shall take, at the Authority's request, all reasonable and lawful actions which assist in successful implementation of this Agreement.

ARTICLE V
GENERAL CONDITIONS OF AGREEMENT UPON THE
AUTHORITY'S SCOPE OF WORK

1. The Authority may dispose of Solid Waste and Recyclables produced from a variety of sources within and without the geographical boundaries of User. The Authority may own, operate, construct, reconstruct, acquire and maintain any Disposal Facility, Disposal Facilities, Recycling Facility or Recycling Facilities as it deems appropriate, and may promulgate and enforce regulations governing the use or operation of any Disposal Facility or Recycling Facility.

2. The Authority shall cause any Collector or Transporter disposing of Solid Waste, or (with the required approval) disposing of Special Wastes, at any Authority Disposal Facility or Recyclables at any Authority Recycling Facility to identify the political subdivision from which such Solid Waste or Recyclables were generated or collected, and shall record and utilize this information as required by this Agreement.

ARTICLE VI
DESIGNATED REPRESENTATIVES

1. The User designates its Town Manager (the "Designated Representative") as the person responsible for receiving public inquiries concerning service provided to User under this Agreement.

2. The Authority designates its Executive Director or his designee to receive and act upon any inquiries forwarded by the User's Designated Representative.

ARTICLE VII
SERVICE FEES

1. The Authority shall fix and determine from time to time, in accordance with the Virginia Water and Sewer Authorities Act, its Service Fees. Service Fees shall be established at such levels as may be necessary to provide funds sufficient at all times to pay the cost of all Authority obligations, including but not limited to (a) costs of the acquisition, construction, improvement, operation, use, maintenance, closing, monitoring, debt service on any Bonds and any related obligations of or arising from any Disposal Facility, Recycling Facility or other facility for which the Authority is obligated, (b) costs of any services, including Disposal Services and Recycling Services, contracted for by the Authority, (c) costs of any other action of the Authority allowed by law, and (d) setting aside funds as may be necessary to provide reserves for the above-mentioned Authority activities and obligations as well as any other Authority activities and obligations in amounts deemed proper by the Authority.

2. On an annual basis, as well as prior to determining such Service Fees, the Authority will project the quantity of Solid Waste and Recyclables to be generated or collected within the area under the jurisdiction of the User's governing body which is anticipated to be delivered (whether by public Collectors or Transporters or private Collectors or Transporters, or both) to any and each Disposal Facility owned, operated or otherwise controlled by the Authority. Such projection or projections, together with supporting documentation, shall be provided to the User for comment and concurrence or, if objected to, for a statement of objections to be considered by the Authority's membership. Such projection or projections shall be used by the Authority in determining appropriate Service Fees.

3. The Authority shall charge the Service Fees for all Solid Waste or Recyclables generated or collected within the area under the jurisdiction of the User's governing body and disposed of at any Authority Disposal Facility or Recycling Facility. If any such Solid Waste or Recyclables are transported to a Disposal Facility or Recycling Facility by the User, the Authority shall invoice the User for Disposal Services provided by the Authority on a monthly basis, which invoice shall be due within 45 days of the date that the invoice is mailed to the User's Designated Representative. The initial Service Fees expected to be charged under this Agreement are detailed in Exhibit A of this Agreement.

4. Payments not received by the Authority within a five (5) working day grace period following the due date shall be assessed a late charge of ten percent (10%) per annum on the unpaid amount. This late payment charge shall be calculated by the Authority and added to the next monthly payment invoice. The Authority may, in its sole discretion, agree to waive the late payment charge on the first such late payment occurrence. Such a waiver of the late payment charge shall not constitute any waiver by the Authority of its right to assess a late payment charge for any subsequent late payment due. Upon the first occasion of receipt of payment from the User after the late payment grace period, the Authority shall notify the User's Designated Representative, in writing, of the late receipt of payment in order that a reoccurrence and future late payment charge may be avoided.

ARTICLE VIII TITLE TO SOLID WASTE

The User hereby assigns and transfers to the Authority all of its right, title and interest, if any, in and to all Special Wastes specifically approved for disposal by the governing body of the Authority, Solid Waste and Recyclables delivered to and accepted by the Authority under this Agreement, and such ownership shall be deemed to have been so assigned and shall vest in the Authority when delivered to the Authority for disposal; provided, however, that title to Special Wastes not specifically approved for disposal by the governing body of the Authority, Unacceptable Waste and Hazardous Waste shall not vest in the Authority even if delivered to and unknowingly accepted by the Authority for disposal but shall remain with the User delivering it, since the Authority declines to accept and the User covenants not to deliver Special Wastes not specifically approved for disposal by the governing body of the Authority, Unacceptable Waste or Hazardous Waste to the Authority for disposal.

ARTICLE IX AUDIT PROVISIONS

1. The Authority shall keep proper books and records in accordance with generally accepted accounting practices and shall make them available for inspection at all reasonable times by the User's authorized agents.
2. The Authority shall cause an annual audit of its books and records to be made by an independent certified public accountant at the end of each fiscal year and a copy thereof to be delivered promptly to the User's Designated Representative.

ARTICLE X NOTICE

All notices, demands and requests under this Agreement shall be in writing and shall be deemed to have been given if served personally, or if sent by United States Registered or Certified Mail, postage prepaid, addressed to the addresses set forth below or such other addresses as either party may designate by notice to the other:

If to the Authority:

Mr. Randall Bowling, Executive Director
Montgomery Regional Solid Waste Authority
201 Radford Street
Christiansburg, VA 24060

with a copy to:

Mr. Daniel M. Siegel, Esq.
Sands, Anderson, Marks & Miller
P.O. Box 1998 (23216-1998)
801 E. Main St., 14th Floor
Richmond, VA 23219

If to the User:

Mr. John E. Lemley, Town Manager
Town of Christiansburg
100 East Main Street
Christiansburg, VA 24073

with a copy to:

Mr. W.R.L. Craft, Town Attorney
Town of Christiansburg
100 East Main Street
Christiansburg, VA 24073

ARTICLE XI MISCELLANEOUS

1. Nothing herein shall be construed to constitute a joint venture between the Authority and the User or the formation of a partnership.
2. Failure of any party to perform under this Agreement by reason of Force Majeure shall not constitute default or be cause for termination of this Agreement. However, the party so failing to perform shall immediately notify the other parties in writing of the failure, including reasons therefor, and shall make reasonable efforts to correct such failure and to continue performance at the earliest possible date.
3. The parties to this Agreement agree that the laws of the Commonwealth of Virginia shall govern the validity, construction, interpretation, and effect of this Agreement. This Agreement and the work to be done as described herein is also subject to the provisions of all pertinent federal, state and local laws, regulations and ordinances which are hereby made a part hereof with the same force and effect as if specifically set

out herein. This Agreement is entered into and is to be performed in the Commonwealth of Virginia.

4. In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be binding upon the parties.

5. One or more waivers of a breach by any party of any provision, term, condition, or covenant of this Agreement shall not be construed by the other party as a waiver of a subsequent breach by the other party.

6. Neither the User nor the Authority shall assign their respective duties under this Agreement without the written consent of the other signatory to this Agreement.

7. This Agreement represents the entire agreement between the Authority and the User concerning the Agreement's subject matter and supersedes all prior negotiations, representations or agreements, either written or oral.

8. It is recognized by the User and the Authority that this Agreement constitutes an essential part of the Authority's financing plan and that this Agreement cannot be amended, modified, or otherwise altered in any manner that will impair or will adversely affect the security afforded for the payment of the principal of, premium, if any, and interest on any Bonds, and that this Agreement may be modified or amended only with the consent of the User and the Authority.

9. The headings and titles accompanying any article or section of this Agreement are solely for convenience and under no circumstance are they or any of them to be treated or construed as any part of this Agreement.

IN WITNESS WHEREOF, the Authority and the User have caused this Agreement to be executed on their behalf, as of the day and year first above written.

**MONTGOMERY REGIONAL SOLID WASTE
AUTHORITY**

By: John E. Lundy
Its: Chairman

TOWN OF CHRISTIANBURG

By: Harold G. Lintner
Its: Mayor

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ARTICLES OF AMENDMENT TO ARTICLES OF INCORPORATION OF MONTGOMERY REGIONAL SOLID WASTE AUTHORITY

Montgomery County, Virginia, the Town of Blacksburg, Virginia, the Town of Christiansburg, Virginia and Virginia Polytechnic Institute and State University, through their respective governing bodies, by joint agreement have adopted the following amendment to the Articles of Incorporation of the Montgomery Regional Solid Waste Authority (**the "Articles of Incorporation"**), pursuant to the Virginia Water and Waste Authorities Act:

1. The Articles of Incorporation are amended by deleting Section 4 in its current form and substituting the following as Section 4 of the Articles of Incorporation:

The terms of office of the five (5) members of the Board of the Authority beginning July 1, 2018 shall be as follows: the member representing Montgomery County shall have a term of three (3) years, the member representing Town of Blacksburg shall have a term of two (2) years, the member representing Town of Christiansburg shall have a term of one (1) year, the member representing Virginia Polytechnic Institute and State University shall have a term of four (4) years and the at-large member shall have a term of two (2) years. Subsequent to these terms, each member shall be appointed for terms of four (4) years each, and members may be reappointed to succeed themselves. Members representing the respective incorporating political subdivision shall be appointed by their respective governing bodies and the at-large member shall be appointed jointly by all governing bodies, each such successive member so appointed to represent his or her respective incorporating political subdivision or at large, as appropriate, until the expiration of such member's term, and until such member's successor shall have been duly appointed. Any vacancy in the membership of the Authority other than by expiration of term shall be filled by the respective governing body (or as to the at-large member, by all of the governing bodies, jointly) by the appointment of a member to fill such vacancy for the unexpired term only.

IN WITNESS WHEREOF, the Board of Supervisors of Montgomery County, Virginia, by its County Administrator, the Town of Blacksburg, Virginia, by its Town Manager, the Town of Christiansburg, Virginia, by its Town Manager and Virginia Polytechnic Institute and State University, by its Executive Vice President have caused these Articles of Amendment to Articles of Incorporation to be executed, and their respective seals to be affixed hereto and attested by their respective clerks or secretaries this __ day of _____, 2018.

MONTGOMERY COUNTY, VIRGINIA

By: _____
County Administrator

ATTEST:

Clerk

TOWN OF BLACKSBURG, VIRGINIA

By: _____
Town Manager

ATTEST:

Clerk

TOWN OF CHRISTANSBURG, VIRGINIA

By: _____
Town Manager

ATTEST:

Clerk

VIRGINIA POLYTECHNIC INSTITUTE AND STATE
UNIVERSITY

By: _____
Executive Vice President

ATTEST:

Secretary

**AGREEMENT TO AMEND THE ARTICLES OF INCORPORATION OF THE
MONTGOMERY REGIONAL SOLID WASTE AUTHORITY AND TO EXTEND TERM
OF USER AGREEMENTS BETWEEN THE AUTHORITY AND PARTICIPATING
JURISDICTIONS**

WHEREAS, Montgomery County, Virginia ("**Montgomery County**"), the Town of Blacksburg, Virginia (**the "Town of Blacksburg"**), the Town of Christiansburg, Virginia (**the "Town of Christiansburg"**) and Virginia Polytechnic Institute and State University ("**Virginia Tech**" and, together with Montgomery County, the Town of Blacksburg and the Town of Christiansburg, the "**Participating Jurisdictions**"), in accordance with the requirements of the Virginia Water and Waste Authorities Act (**the "Act"**) and by causing Articles of Incorporation (**the "Articles of Incorporation"**) to be filed with the Virginia State Corporation Commission on December 14, 1994 did create the Montgomery Regional Solid Waste Authority (**the "Authority"**) as an authority under the Act for the benefit of the Participating Jurisdictions; and

WHEREAS, the Articles of Incorporation presently provide for terms of office of all members of the Authority's Board of Directors to run concurrently, with the next term expiration date being June 30, 2018; and

WHEREAS, the Participating Jurisdictions desire to amend the Articles of Incorporation to provide for staggered terms of office for members of the Authority's Board of Directors as stated below; and

WHEREAS, each of the Participating Jurisdictions entered into an identical User Agreement with the Authority (**together the "User Agreements"**) for the Authority to provide solid waste disposal and recycling services for each of the Participating Jurisdictions; and

WHEREAS, for over 22 years the Authority has provided solid waste disposal and recycling services to the Participating Jurisdictions under the regional framework provided by

the Articles of Incorporation and User Agreements that has allowed the Participating Jurisdictions to take advantage of economies of scale; and

WHEREAS, the User Agreements have a term beginning on July 1, 1995 and ending on June 30, 2025, and the Participating Jurisdictions desire to extend such term to June 30, 20[40]; and

WHEREAS, notice has been provided and public hearings have been held in accordance with the requirements of the Act regarding this Agreement.

NOW, THEREFORE, the Participating Jurisdictions agree as follows:

1. The Articles of Incorporation of the Authority shall be amended to reflect that for the terms of office of the five (5) members of the Board of the Authority beginning on July 1, 2018, the member representing Montgomery County shall have a term of three (3) years, the member representing Town of Blacksburg shall have a term of two (2) years, the member representing Town of Christiansburg shall have a term of one (1) years, the member representing Virginia Polytechnic Institute and State University shall have a term of four (4) years and the at-large member shall have a term of two (2) years, that subsequent to these terms, each member shall be appointed for terms of four (4) years each, and members may be reappointed to succeed themselves, all as set forth in the attached Articles of Amendment to Articles of Incorporation of the Authority.
2. The User Agreements are each amended to provide that the term of each such User Agreement shall terminate on June 30, 2040. All other provisions of the User Agreements shall remain unchanged.

MONTGOMERY COUNTY, VIRGINIA

By: _____
County Administrator

ATTEST:

Clerk

TOWN OF BLACKSBURG, VIRGINIA

By: _____
Town Manager

ATTEST:

Clerk

TOWN OF CHRISTANSBURG, VIRGINIA

By: _____
Town Manager

ATTEST:

Clerk

VIRGINIA POLYTECHNIC INSTITUTE AND STATE
UNIVERSITY

By: _____
Executive Vice President

ATTEST:

Secretary

MONTGOMERY REGIONAL SOLID WASTE
AUTHORITY

By: _____
Executive Director

ATTEST:

Secretary

**RESOLUTION OF TOWN COUNCIL OF THE TOWN OF CHRISTIANBURG,
VIRGINIA APPROVING AGREEMENT TO AMEND THE ARTICLES OF
INCORPORATION OF THE MONTGOMERY REGIONAL SOLID WASTE
AUTHORITY AND TO EXTEND TERM OF USER AGREEMENT BETWEEN THE
AUTHORITY AND THE TOWN**

WHEREAS, the Town of Christiansburg, Virginia (**the "Town"**), together with Montgomery County, Virginia, the Town of Blacksburg, Virginia and Virginia Polytechnic Institute and State University (**together, the "Participating Jurisdictions"**), created the Montgomery Regional Solid Waste Authority (**the "Authority"**) to enable the Participating Jurisdictions to dispose of solid waste and recycle recyclable materials on a regional basis by causing Articles of Incorporation forming the Authority (**the "Articles of Incorporation"**) to be filed with the Virginia State Corporation Commission; and

WHEREAS, the Articles of Incorporation presently provide for terms of office of all members of the Authority's Board of Directors to run concurrently, with the next four year term expiration date being June 30, 2018, and the Authority and the Participating Jurisdictions desire to provide for staggered terms of office for members of the Authority's Board of Directors as stated below; and

WHEREAS, the Participating Jurisdictions have each also entered into identical User Agreements with the Authority (**the "User Agreements"**) for the Authority to provide solid waste disposal and recycling services for each of the Participating Jurisdictions; and

WHEREAS, the User Agreements have a term beginning on July 1, 1995 and ending on June 30, 2025, and the Participating Jurisdictions desire to extend such term to June 30, 2040; and

WHEREAS, there has been presented to this meeting a proposed agreement among the Town, the other Participating Jurisdictions and the Authority entitled "Agreement to Amend the Articles of Incorporation of the Montgomery Regional Solid Waste Authority and to Extend Term of User Agreements Between the Authority and Participating Jurisdictions" (**the "Agreement"**), which Agreement incorporates therein Articles of Amendment to Articles of Incorporation of Montgomery Regional Solid Waste Authority (**the "Articles of Amendment"**) that are attached thereto; and

WHEREAS, the Town Council of the Town has prior to the adoption of this Resolution held a public hearing concerning the proposed approval of the Town Council of the Agreement.

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Christiansburg, Virginia that:

1. The forms of the Agreement and the Articles of Amendment are approved and the Town Manager, Mayor and Vice Mayor of the Town, and each of them, is authorized to execute the Agreement and the Articles of Amendment in substantially the forms presented to this meeting.
2. Upon execution of the Agreement and the Articles of Amendment by the other signatories thereto, the Town Manager is authorized to take all actions to cause the Articles of Amendment to be filed with the Virginia State Corporation Commission together with any other necessary documents, and to take all actions required by law to be taken prior to such filing.
3. This Resolution shall take effect immediately on April 24, 2018.

CERTIFICATION OF ADOPTION OF RESOLUTION

The undersigned Clerk of the Town Council of the Town of Christiansburg, Virginia certifies that the Resolution set forth above was adopted on April 24, 2018 in an open meeting, by the Town Council with the following votes:

Aye:

Nay:

Abstentions:

Absences:

Signed this ____ day of _____, 2018.

By: _____
Clerk, Town Council of
the Town of Christiansburg, Virginia

TOWN OF CHRISTIANSBURG

Established November 10, 1792

Incorporated January 7, 1833



RESOLUTION OF TOWN COUNCIL OF THE TOWN OF CHRISTIANSBURG, VIRGINIA APPROVING AGREEMENT TO AMEND THE ARTICLES OF INCORPORATION OF THE MONTGOMERY REGIONAL SOLID WASTE AUTHORITY AND TO EXTEND TERM OF USER AGREEMENT BETWEEN THE AUTHORITY AND THE TOWN

WHEREAS, the Town of Christiansburg, Virginia (**the "Town"**), together with Montgomery County, Virginia, the Town of Blacksburg, Virginia and Virginia Polytechnic Institute and State University (**together, the "Participating Jurisdictions"**), created the Montgomery Regional Solid Waste Authority (**the "Authority"**) to enable the Participating Jurisdictions to dispose of solid waste and recycle recyclable materials on a regional basis by causing Articles of Incorporation forming the Authority (**the "Articles of Incorporation"**) to be filed with the Virginia State Corporation Commission; and,

WHEREAS, the Articles of Incorporation presently provide for terms of office of all members of the Authority's Board of Directors to run concurrently, with the next four year term expiration date being June 30, 2018, and the Authority and the Participating Jurisdictions desire to provide for staggered terms of office for members of the Authority's Board of Directors as stated below; and,

WHEREAS, the Participating Jurisdictions have each also entered into identical User Agreements with the Authority (**the "User Agreements"**) for the Authority to provide solid waste disposal and recycling services for each of the Participating Jurisdictions; and,

WHEREAS, the User Agreements have a term beginning on July 1, 1995 and ending on June 30, 2025, and the Participating Jurisdictions desire to extend such term to June 30, 2040; and,

WHEREAS, there has been presented to this meeting a proposed agreement among the Town, the other Participating Jurisdictions and the Authority entitled "Agreement to Amend the Articles of Incorporation of the Montgomery Regional Solid Waste Authority and to Extend Term of User Agreements Between the Authority and Participating Jurisdictions" (**the "Agreement"**), which Agreement incorporates therein Articles of Amendment to Articles of Incorporation of Montgomery Regional Solid Waste Authority (**the "Articles of Amendment"**) that are attached thereto; and,

WHEREAS, the Town Council of the Town has prior to the adoption of this Resolution held a public hearing concerning the proposed approval of the Town Council of the Agreement; and,

NOW, THEREFORE BE IT RESOLVED, by the Council of the Town of Christiansburg, Virginia, meeting in regular session on April 24, 2018, that:

1. The forms of the Agreement and the Articles of Amendment are approved and the Town Manager, Mayor and Vice Mayor of the Town, and each of them, is authorized to execute the Agreement and the Articles of Amendment in substantially the forms presented to this meeting.
2. Upon execution of the Agreement and the Articles of Amendment by the other signatories thereto, the Town Manager is authorized to take all actions to cause the Articles of Amendment to be filed with the Virginia State Corporation Commission together with any other necessary documents, and to take all actions required by law to be taken prior to such filing.
3. This Resolution shall take effect immediately on April 24, 2018.

AYE

NAY

ABSTAIN

ABSENT

Samuel M. Bishop

Harry Collins

Steve Huppert

Merissa Sachs

Henry D. Showalter

Bradford J. Stipes

D. Michael Barber, Mayor*

*Votes only in the event of a tie.

Michele M. Stipes, Clerk of Council

D. Michael Barber, Mayor



**TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET**

AGENDA LOCATION:

Discussion and Action by Mayor and Council

Meeting Date:

April 24, 2018

ITEM TITLE:

Resolution authorizing participation in the DHCD Commercial District Affiliate Program.

DESCRIPTION:

Virginia Main Street has established the Commercial District Affiliate Program through the Virginia Department of Housing and Community Development (DHCD) to assist communities in efforts to revitalize their downtown commercial areas. The Central Business Committee has reviewed the program and application with town staff and supports participation in the Commercial District Affiliate Program.

Participation in the Affiliate Program is voluntary and does not commit the Town to any expenditures. Selection as a Commercial District Affiliate is obtained by submitting a simple, non-competitive application and the only program requirement is to maintain updated contact information with Virginia Main Street. Selection as a Commercial District Affiliate will provide the Town access to all Virginia Main Street training materials and limited on-site assistance, as available.

POTENTIAL ACTION:

Action

DEPARTMENT(S):

Planning Department

PRESENTER:

Andrew Warren, Planning Director

Information Provided:

Town Council Resolution Authorizing Participation in the DHCD Commercial District Affiliate Program
<https://christiansburg.box.com/s/s515vm9y0gwccidkoszbvixc5tqqpbtj>