AGENDA--CITY COUNCIL MEETING--CITY OF MARTINSVILLE, VIRGINIA
Council Chambers – Municipal Building
7:30 p.m. – Tuesday, August 9, 2011

Invocation – Mayor Kim Adkins
Pledge to the American flag

1. Consider approval of Council meeting minutes of July 26, 2011. (2 minutes)
2. Recognition and presentation of proclamation for Virginia Cardinals baseball team. (2 minutes)
3. Consider approval of FY12 Performance Contract between Piedmont Community Services and the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services. (5 minutes)
4. Conduct a public hearing and consider re-approval of Power Sales Contract regarding AMP Fremont. (30 minutes)
5. Hear update on the Martinsville Mustangs 2011 season and consider approval of a Letter of Intent for the 2012 season. (30 minutes)
6. Consider setting a public hearing for August 23, 2011 regarding adoption of resolution and required ordinance for City of Martinsville Water Supply Plan. (10 minutes)
7. Business from the Floor
   This section of the Council meeting provides citizens the opportunity to discuss matters that are not listed on the printed agenda. Since the Council meetings are broadcast on Martinsville Government Television, the City Council is responsible for the content of the programming. Thus, any person wishing to bring a matter to Council's attention under this Section of the agenda should:
   (1) come to the podium, state name and address;
   (2) state the matter they wish to discuss and Council action requested;
   (3) limit remarks to five minutes;
   (4) refrain from making any personal references or accusations of a factually false and/or malicious nature.
   Persons who violate these guidelines will be ruled out of order by the presiding officer and asked to leave the podium. Persons who refuse to comply with the direction of the presiding officer may be removed from the chambers.
8. Comments by Members of City Council (10 minutes)
9. Comments by City Manager. (5 minutes)
10. Items to be considered in Closed Session, in accordance with the Code of Virginia, Title 2.2, Chapter 37—Freedom of Information Act, Section 2.2-3711—Closed Meetings, the following:
    A. A personnel matter as authorized by Subsection 1.
    B. A prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community as authorized by Subsection 5.

City Council will adjourn/recess and convene as the Martinsville Redevelopment& Housing Authority

1. Conduct a public hearing and have a 30-day comment period for any additional input regarding minimum rent for recipients of assistance under the Section 8 Housing Choice Voucher Program. (5 minutes)

Martinsville Redevelopment & Housing Authority will then adjourn.

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City Council Agenda Summary

Meeting Date: August 9, 2011

Item No: 1.

Department: Clerk of Council

Issue: Consider approval of minutes of City Council meetings July 26, 2011.

Summary: None

Attachments: July 26, 2011

Recommendations: Motion to approve minutes as presented

July 26, 2011

The regular meeting of the Council of the City of Martinsville, Virginia, was held on July 26, 2011, in Council Chambers, Municipal Building, at 7:30 PM, with Mayor Kim Adkins presiding. Council Members present included: Mayor Kim Adkins, Vice Mayor Kimble Reynolds, Gene Teague, Mark Stroud, Sr., and Danny Turner. Staff present included: Clarence Monday, City Manager, Brenda Prillaman, Eric Monday, Linda Conover, Leon Towarnicki, Wayne Knox, Susan McCulloch, Coretha Gravely, Ruth Easley, Jay Stout, Mike Rogers, and Gary Cody.

Following the invocation by Council Member Gene Teague and Pledge to the American Flag, the Mayor welcomed everyone to the meeting.

On a motion by Gene Teague, seconded by Mark Stroud, with a 5-0 vote, Council approved the minutes of the June 28, July 5, and July 12, 2011 Council meetings.

A proclamation regarding the 2011 National Night Out on August 2, 2011 was presented to Police Officer Coretha Gravely and members of Neighborhood Watch groups.

Gary Cody presented the following preliminary report on the Martinsville Mustangs:

Preliminary Report of the Martinsville Mustangs as of 7/26/11
Figures are approximating numbers pulled together after July 8th game

Revenues

- Despite 3 rained out games this year, the team is approximately $5,000 more in game revenue compared to the same number of games through the 2010 season. *(Note: We had no rainout games in the 2009 or 2010 season).*
- 33 more season ticket holders compared to the 2010 season sold. 33 x $125 = $4,125 more… *(Note: not reflected on day to day revenue above and this number could be higher if fan purchased the Gold Passes at $200 per ticket includes punch card for 10 hotdogs, shirt, and private parking spot).*
- Added 8 new sponsors whom never sponsored with the Mustangs. Sponsors want to be a part of the action and the positive atmosphere at the Park. They see and wreak the benefits of being a sponsor with the major draw the team receives in the area. Extended commitment to the Mustangs would add even more sponsors to the list as a marketing investment for local and regional businesses.

Savings

- Season Ticket holders helped the Team by feeding the team after the game, which saved on Team Meals on numerous occasions where they brought a covered dish.
- Expected to save approximately $12,000 in travel expenses by using PHCC extracurricular bus
- Traded signage to cut cost for team expenses – Actual=$47,620 / Actual + Traded = $61,200
    - Revenue in signage is down $2,000, but Gross + Traded is up $30,000, which saves the Team in expenses otherwise spent out of Mustangs' Budget (Food, Lodging, Promotions, Team Activities, Materials for Picnic Deck, New Air Condition in concession stand, Signage paid for as Trade, and Umpire Meals)
- First year the Mustangs met their need in Host Families. We had enough so we didn't overcrowd any host families with too many kids. There is a better understanding of how families benefit from keeping ballplayers while they mentor their children while acting as a big brother. The community has stepped up to save the Team from disbanding.

Game Atmosphere Improvements

- Team has made 8 public appearances to local businesses and community involvement events - - Attendance is up 12,000 compared to the same number of games in the 2010 season. Contributed by more Chamber Nights, added Eden and Patrick Co. plus bigger give-a-ways, which draws people (Subway, Taco Bell, Chick-fil-a, Wild Magnolia's, etc.).
- 12 nights with over 1,000 people, 2 nights with over 2,000 people, and 2 nights with over 3,000 people
- *Compared to 2010 season, 4 games over 1,000 people, and 2 games of 2,000 people or more, and no recorded 3,000 or more people in the Park at one time despite a crammed schedule day-after-day traveling and playing at Hooker Field.*
- Picnic Deck – improved game revenue and atmosphere at the game. Premier seats with 32" Flat Screen TV provided to the Mustangs by Aaron's Rentals.
- Mustangs are 9th in the League Standings at 22-24 (out of 15 teams) and have a chance to make playoffs

Mr. Cody asked that Council consider a commitment at the August 9, 2011 Council meeting.

After discussion on the need for multi-year contract and credit card usage, Council asked that a complete report on the Mustangs be made available to them on Friday, Aug. 5, in order that they will have time to study and review completely before a final decision is made.

Wayne Knox briefed Council on the proposed amendment to the zoning ordinance regarding pawn shops noting that at present, the City of Martinsville allows pawnshops as a use permitted by right in the C-1A, C-2, C-3, M-1 and M-2 Districts. Due to concerns reported by other communities regarding the negative effects of these businesses, the Planning Commission felt that removing this use would serve to protect the public, health, safety and welfare, and to promote orderly growth of the community. The Planning Commission held a duly advertised public hearing on July 14, 2011. There was one person in attendance at the public hearing and that person did not voice opinion in favor or against the proposed amendment to the Zoning Ordinance. Planning Commission voted (3-2, with one abstention) to send this amendment to City Council for their consideration. He pointed out that City staff recommends amending the Zoning Ordinance to remove pawnshops as a permitted use in all districts in which it is currently a permitted use. After discussion, Council asked that the pawnshop issue be taken back to the Planning Commission to see if special use guidelines can be used to provide the protections needed without restricting business. Council decided not to set a public hearing and will wait to hear back from Planning Commission on pawnshop special use permit recommendations.

Susan McCulloch briefed Council on Arts & Cultural incentives noting this report was for information only and that staff is still working on pros and cons of the issue.

During its June 16, 2011 regular meeting, the Arts & Cultural Committee discussed potential incentives to entice new Art/Cultural-related businesses into the district. The existing local benefits for the Enterprise Zone are competitive benefits that have been in place since 2008. Entrepreneurs and property owners have indicated that they are a great help when starting operations in the Zone. The overlay for the Arts & Cultural District is almost completely within the Enterprise Zone, except for a few parcels on Market Street and Fayette Street. A caveat is that some of these parcels are residential, so we don't envision the use will change; however businesses surrounding them can perhaps take advantage of the incentives, which would enliven the neighborhood as a whole. Members of the Arts and Cultural Committee recommend that those businesses not already covered by Enterprise Zone benefits be allowed to apply for Arts/Cultural Related benefits. Businesses would not be allowed to apply for both Enterprise Zone benefits and Arts/Cultural benefits at the same time. On July 14, 2011, Planning Commission voted 3-2 to back the recommendation and recommended it be submitted to City Council.

After discussion by Council, staff was directed to continue gathering information and bring the issue back to Council for action at a later date.

City Manager Clarence Monday briefed Council on the resolution requesting the restoration of across-the-board state reduction in aid-to-localities. To balance the State budget, the Virginia Appropriation Act contains $60 million in across-the-board cuts to cities and counties for both FY11 and FY12, under which localities are required to either elect to take reductions in particular State aid programs or to send the State a check for the amounts determined by the Department of Planning and Budget. Last FY, the City of Martinsville reimbursed the State $209,050 and will submit another check to the State for $205,954 this fiscal year. Despite State General Fund revenue collections exceeding the forecast by $311M in FY11, following a $228M surplus in FY10, local governments are required to send money back to the State. While the State requires these across-the-board funding reductions, mandates remain in place for localities to provide the same level of State required services for local residents. The

Staff requests that the Council adopt the Resolution, requesting the Governor to eliminate these reductions and requests the General Assembly to support such budget amendments.

On a motion by Kimble Reynolds, seconded by Gene Teague, with a 5-0 vote, Council approved the following resolution to be sent to the governor and state legislators:

*RESOLUTION--**IN SUPPORT OF RESTORATION OF STATE FUNDING FOR AID TO LOCALITIES***

Whereas, state financial assistance for mandated and high priority programs, including public education, health and human services, public safety and constitutional officers, is $800 million less in FY12 than in FY09; and

Whereas, cities and counties must balance their budgets during a time in which future state assistance is unreliable, federal stimulus dollars are dwindling, and real estate assessments are declining; and

Whereas, the Virginia Appropriation Act contains $60 million in across-the-board cuts to cities and counties for both FY11 and FY12, under which localities are required to either elect to take reductions in particular state aid programs, or to send the State a check for the amounts determined by the Department of Planning and Budget; and

Whereas, the reductions are applied to essential services, including law enforcement, jail administration, foster care and child protection services, election administration and social services; and

Whereas, the City of Martinsville does not have the authority to unilaterally decide to discontinue providing services such as election administration or to refuse to house and care for State prisoners in local jails; and

Whereas, the state budget cuts are not accompanied by any reductions in state-imposed mandates, standards and service requirements, nor do they provide any administrative flexibility for local agencies; and

Whereas, the City of Martinsville remitted $209,050 in FY11 and will be required to remit another $205,954 in FY12; and

Whereas, cities and counties will have provided the State with $220 million by the close of FY12 for this "Local Aid to the State" program; and

Whereas, these reductions shift State costs to local taxpayers and artificially increases the amount of state surplus revenue; and

Whereas, State revenues have begun to recover and the State is expecting to have a revenue surplus for the second year in a row; and

Whereas, revenue collections for the City of Martinsville continue to reflect struggling national and local economies; and

Whereas, the State should not shift its share of the costs for mandates and responsibilities to local governments; now, therefore,

BE IT RESOLVED by the City Council of the City of Martinsville, Virginia, in regular session assembled July 26, 2011 that it asks Governor Bob McDonnell to submit a budget amendment to the 2012 session of the General Assembly to reverse the $60 million-a-year reduction for the current year, FY12, and to eliminate the aid to localities reduction in the budget submitted for FY13 and FY14; and

BE IT FURTHER RESOLVED by the City Council of the City of Martinsville, Virginia that it asks the members of the General Assembly to support a budget amendment to the 2012 session of the General Assembly to reverse the $60 million-a-year reduction for the current year, FY12, and to eliminate the aid to localities reduction in the budget submitted for FY13 and FY14.

On a motion by Gene Teague, seconded by Kimble Reynolds, with a 5-0 vote, Council approved the following consent agenda:

BUDGET ADDITIONS FOR 7/26/11

ORG	OBJECT	DESCRIPTION	DEBIT	CREDIT
FY11				
GENERAL FUND				
01100909	490801	Recovered Costs - Senior Citizens		213
01714212	506016	Senior Citizens - Program Supplies	213	
		fees for trips		
01101917	442701	Categorical Other State-Fire Programs		4,512
01321102	506110	Fire Dept - State Fire Programs Grant	4,512	
		appropriate full funding		
01100909	490104	Recovered Costs		1,194
01311085	505500	Police Dept - Travel	1,194	
		DMV grant - travel reimbursement		
Total General Fund:			5,919	5,919
ORG	**OBJECT**	**DESCRIPTION**	**DEBIT**	**CREDIT**
FY12				
GENERAL FUND				
1100908	480410	Miscellaneous - Donations/Fire Department		78
01321102	505500	Fire Dept - Travel & Training	78	
		designated donation through United Way		
Total General Fund:			78	78

Business from the floor:

Ural Harris, 217 Stuart St.—comments on power adjustment clause and reconsideration of AMP vote; Melvin Smith, 614 E. Church St.-comments on pawn shops; Geri Ridenhour, Mulberry Rd.-comments on return boards at city tennis courts.

Comments from City Council: Stroud-comments on Mustangs team and pawn shops; Reynolds-reported Human Relations Advisory Comm had informative meeting; Turner-Mustangs comments; Teague—requested dates be set for August or September for a Council planning session; Adkins-congratulated Virginia Cardinal baseball team for representing area and asked that they be invited to a Council meeting for formal recognition and the Mayor congratulated Helen Howell for being named Woman of the Year and extended thanks to the United Way for the program.

Comments from City Manager: Mr. Monday advised that the advertisement for the Finance Director position will go out this weekend and plans are to hire by December 1. Mr. Monday asked that Council send him their ideas for a strategic planning session as to how many days and topics, etc. and he will work toward making the arrangements as requested.

In accordance with Section 2.1-344 (A) of the Code of Virginia (1950, and as amended) and upon a motion by Danny Turner, seconded by Mark Stroud, with the following 5-0 recorded vote: Adkins, aye; Teague, aye; Reynolds, aye; Stroud, aye; and Turner, aye, Council convened in Closed Session, for the purpose of discussing the following matters: (A) A personnel matter as authorized by Subsection 1, (B) A prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business or industry's interest in locating or expanding its facilities in the community as authorized by Subsection 5, (C) Appointments to boards and commissions as authorized by Subsection 1.

City Council recessed and convened as the Martinsville Redevelopment and Housing Authority for two agenda items.

(1) Wayne Knox briefed the Martinsville Redevelopment and Housing Authority on the annual HUD resolution. On a motion by Gene Teague, seconded by Danny Turner, with a 5-0 vote, the MRHA voted to approve the following resolution:

MARTINSVILLE REDEVELOPMENT & HOUSING AUTHORITY--RESOLUTION
SECTION MANAGEMENT ASSESSMENT PROGRAM (SEMAP) CERTIFICATION

Whereas, 24 CFR 985.101 requires a Public Housing Agency administering a tenant – based assistance program to submit an annual SEMAP Certification within 60 days after the end of its fiscal year;

Whereas, SEMAP requires HUD to rate the performance of Public Housing agencies by assessing 14 performance indicators subject to HUD verification by an on – site confirmation review at any time;

Whereas, The Housing Authority is required to submit certification to HUD for the 14 performance indicators, and;

Whereas, The Certification must be approved by the PHA board and signed by the PHA Executive Director; now, therefore,

BE IT RESOLVED, by the Board of Commissioners of the Martinsville Redevelopment and Housing Authority,

1. That the Section 8 Management Assessment Program Certification for the Fiscal year ending June 30, 2011 shall be completed as stipulated by HUD and;
2. That the Executive Director is hereby authorized to sign and submit the certification as required.

(2) Wayne Knox briefed the MRHA regarding the minimum rent for recipients of assistance under the Section 8 Housing Choice Voucher Program advising that a public hearing needs to be set for August 9, 2011. On a motion by Gene Teague, seconded by Kimble Reynolds, with a 5-0 vote, the MRHA voted to set the public hearing for August 9, 2011.

The Martinsville Redevelopment and Housing Authority then adjourned and Martinsville City Council re-convened for closed session.

At the conclusion of Closed Session, each returning member of Council certified that (1) only public business matters exempt from open meeting requirements were discussed in said Closed Session; and (2) only those business matters identified in the motion convening the Closed Session were heard, discussed, or considered during Session. On a motion by Kimble Reynolds, seconded by Gene Teague, with the following recorded 5-0 vote: Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council returned to Open Session.

On a motion by Gene Teague, seconded by Mark Stroud, with a 5-0 vote, Phyllis Hairston, 3730 Old Chatham Rd., was appointed to the Human Relations Advisory Committee. No other was action taken.

There being no further business, Mayor Adkins adjourned the meeting at 9:55 pm.

_____ _____

Clarence C. Monday, Clerk of Council Kim E. Adkins, Mayor

Martinsville
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City Council Agenda Summary

Meeting Date: August 9, 2011

Item No: 2.

Department: City Council

Issue: Recognition and presentation of proclamation for Virginia Cardinals baseball team.

Summary: Pam Allen and team members will be present at the meeting.

Attachments: Proclamation

Recommendations:

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Proclamation

WHEREAS, the Virginia Cardinals is a travel baseball team for boys 12 and under ("12U") and is associated with the United States Specialty Sports Association ("USSSA");

WHEREAS, the Virginia Cardinals has players from the City of Martinsville, Henry County, Patrick County and Franklin County, Virginia;

WHEREAS, the Virginia Cardinals is coached by Neil Varner, Chris Roach and Travis Tisdale;

WHEREAS, the players with the Virginia Cardinals are Sidney Allen, Isaiah Hall, Mattox Lawson, Cody Meeks, Matthew Muehleck, Devin Page, Bryce Roach, Jordan Smith, Caleb Tisdale, Bryce Varner, and Austin Vernon;

WHEREAS, the Virginia Cardinals qualified and played in the USSSA 12U World Series tournament in Knoxville, Tennessee on July 13, 2011 through July 17, 2011 ("World Series Tournament") along with 19 other teams from Georgia, Kentucky, Illinois, Indiana, Mississippi, New York, Ohio, Tennessee, and Virginia;

WHEREAS, the Virginia Cardinals was undefeated in their World Series Tournament (the only team undefeated) playing in eight (8) games;

WHEREAS, the Virginia Cardinals scored 75 runs in their 8 games and only allowed 28 runs, and was the best scoring team with the best differential in the tournament; and

BE IT RESOLVED that I, Kim E. Adkins, Mayor, of the City of Martinsville, Virginia, on August 9, 2011, do hereby endorse this special recognition of

VIRGINIA CARDINALS 12U
2011 USSA 12U
WORLD SERIES CHAMPIONS

Kim E. Adkins
Mayor

Martinsville
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City Council Agenda Summary

Meeting Date: August 9, 2011

Item No: 3.

Department: City Manager

Issue: Consider approval of FY12 Performance Contract between Piedmont Community Services and the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services.

Summary: State law requires Piedmont Community Services to submit this contract each year for review and approval by the local government, but said approval does not make the local government a party to the contract and creates no additional responsibility. No substantial changes are in the FY2012 document. Jim Tobin will be at the meeting to answer any questions.

Attachments: Contract

Recommendations: Motion for approval

PIEDMONT COMMUNITY SERVICES

PROVIDING MENTAL HEALTH, INTELLECTUAL DISABILITIES & SUBSTANCE ABUSE SERVICES TO FRANKLIN, HENRY & PATRICK COUNTIES & THE CITY OF MARTINSVILLE.

MEMORANDUM

TO: Richard Huff, Franklin County Administrator
Clarence Monday, City Manager
Tom Rose, Patrick County Administrator
Benny Summerlin, Henry County Administrator

FROM: James M. Tobin, Executive Director

DATE: July 1, 2011

RE: **FY 2012 PERFORMANCE CONTRACT**

Enclosed is the FY 2010-11 Performance Contract between Piedmont Community Services and the Virginia Department of Behavioral Health and Developmental Services (DBHDS). State law requires PCS to submit this contract for your review and potential approval (37-2.508.D). The Department expects this contract to be acted upon by local governments by September 30, 2011. Approval does not make local government a party to the contract and creates no additional responsibility.

Please send me a written statement indicating the action by Council or Board. I am obligated to send this documentation to Richmond by September 30, 2011.

Submission of this contract is intended to provide local governments with full knowledge of and an opportunity to comment upon services provided by community services boards. As the agent of local government, PCS intends to meet community needs and to act on your behalf to the best of our ability.

A page follows this letter summarizing financial information. Also, the document has been split into three parts for the purpose of simplification:

- Performance Contract continues as the core financial and service agreement;
- Partnership Agreement pulls out of the contract important policy understandings; and
- Administrative Requirements Document.

Numerous technical and language changes are scattered throughout the FY 2012 document. No substantial changes are contained. Enclosed is a letter dated May 6 which details all changes.

Please let me know if I can provide any further information or clarification. Thank your for your continuing support for individuals and families affected by behavioral health and developmental challenges.

JMT:kwh

Enclosures

c: PCS Board of Directors

Franklin County
30 Technology Drive
Rocky Mount, VA 24151
540-483-0582
Fax: 540-483-0583

Martinsville
24 Clay Street
Martinsville, VA 24112
276-632-7128
Fax: 276-632-9998

Patrick County
22280 Jeb Stuart Highway
Stuart, VA 24171
276-694-4361
Fax: 276-694-3445

PIEDMONT COMMUNITY SERVICES

ANNUAL BUDGET PRESENTATION
FISCAL YEAR JULY 1, 2011 THROUGH JUNE 30, 2012

REVENUE CATEGORY	APPROVED FY11 BUDGET	REVISED FY 11 BUDGET	PROPOSED FY12 BUDGET	% CHANGE FROM FY11	COMMENTS
STATE (SA code 4001)	$ 811,561	$ 811,561	$ 811,561	0.00%	State Substance Abuse Funds (Federal Block match required minimum funding ratio)
STATE (MR code 4000)	$ 103,727	$ 103,727	$ 99,809	-3.78%	State Mental Retardation funds (ID services) adjustments for OBRA eligibility
STATE (MH code 4007)	$ 781,130	$ 781,130	$ 781,130	0.00%	State Mental Mental Health funds
STATE OTHER	$ 271,668	$ 275,068	$ 275,068	0.00%	Non-Mandated, Child Services, SA Diversion; NGRI
STATE LAW REFORM	$ 265,194	$ 265,194	$ 265,194	0.00%	State Mandated Law Reform funding
STATE PHARMACY	$ 606,390	$ 662,364	$ 606,390	-8.45%	Outsourcing state pharmacy aftercare meds. FY11 one time funding drops out
STATE REGIONAL	$ 965,021	$ 965,095	$ 965,095	0.00%	Regional funds for purchasing hospital beds, FC Crisis, Discharge Assistance plans
FEDERAL	$ 1,225,665	$ 1,209,772	$ 1,204,912	-0.40%	Federal Funds: FY11 experienced permanent funding cuts; with more in FY12
LOCAL/CONTRIBUTIONS	$ 345,512	$ 334,313	$ 334,613	0.09%	No increase budgeted from localities in FY12; 3% requested; FY11 received cuts
GRANT FUNDS*	$ 845,893	$ 1,051,751	$ 807,758	-23.20%	One time Part C funds drop out; Prevention grants fluctuate; Transfer DTF to Other
MEDICAID--CLINIC	$ 346,000	$ 278,000	$ 283,000	1.80%	Outpatient counseling and Medical services funded by Medicaid;
MEDICAID--SPO	$ 6,360,589	$ 6,279,107	$ 6,735,782	7.27%	SPO expands in Youth Therapeutic Day Treatment; MH Support Contractual work
MEDICAID WAIVER	$ 2,818,132	$ 2,762,380	$ 2,893,826	4.76%	MR Residential Group Home and MR In-Home Medicaid services
MEDICAID OTHER	$ 167,834	$ 159,046	$ 145,999	-8.20%	Medicaid for Substance Abuse Services; Medicaid transportation; clinic supplement
OTHER FEES	$ 1,168,906	$ 1,221,594	$ 1,383,178	13.23%	Self pay, Medicare, Commercial, Apt rent, School contracts, others
ADMIN OVERHEAD	$ 879,000	$ 879,000	$ 899,000	2.28%	Funds from operating budgets used to support Admin
OTHER	$ 148,730	$ 200,532	$ 180,233	-10.12%	Grant overhead, Carryover funds, reserve contingency, Drug Task Force
TOTAL REVENUES	**$ 18,110,952**	**$ 18,239,634**	**$ 18,672,548**	2.37%	

EXPENSE CATEGORY	APPROVED FY11 BUDGET	REVISED FY 11 BUDGET	PROPOSED FY12 BUDGET	% CHANGE FROM FY 11	COMMENTS
PERSONNEL	$ 11,525,015	$ 11,494,234	$ 12,329,628	7.27%	2%COLA JULY 1; Plus 2% one-time payment in Jan 12 contingent on collections
OPERATING	$ 4,861,044	$ 4,814,649	$ 4,636,157	-3.71%	Routine facility operations, client contracted services (ex: DAP, LIPOS, We Care)
OPERATING OVERHEAD	$ 879,000	$ 879,000	$ 899,005	2.28%	Funds from operating budgets used to support Admin
GRANT EXPENSES	$ 845,893	$ 1,051,751	$ 807,758	-23.20%	Varies per grant source (see list below)
TOTAL EXPENSES	**$ 18,110,952**	**$ 18,239,634**	**$ 18,672,548**	2.37%	

FY11 Grants: Tobacco Use Control, Drug Free Communities, STOP Act, Tobacco Settlement, Criminal Justice, Day Reporting, Healthy Families, Part C, Drug Task Force

FY11R Grants: Tobacco Use Control, Drug Free Communities, STOP Act, Tobacco Settlement, Criminal Justice, Day Reporting, Healthy Families, Part C, ABC, Drug Task Force

FY12 Grants: Tobacco Use Control, Drug Free Communities, STOP Act, Tobacco Settlement, Criminal Justice, Day Reporting, Healthy Families, Part C (move DTF to operating)

COMMONWEALTH of VIRGINIA

JAMES W. STEWART, III
COMMISSIONER

DEPARTMENT OF
BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES
Post Office Box 1797
Richmond, Virginia 23218-1797

Telephone (804) 786-3921
Fax (804) 371-6638
www.dbhds.virginia.gov

MEMORANDUM

TO: Community Services Board Executive Directors, the Local Government Department Director, and the Behavioral Health Authority Chief Executive Officer

FROM: Paul R. Gilding
Community Contracting Director

SUBJECT: **FY 2012 Community Services Performance Contract**

DATE: May 6, 2011

Attached for your information and use are the FY 2012 contract documents: the Community Services Performance Contract and the Partnership Agreement. The Community Services Board Administrative Requirements, a separate document incorporated into the Performance Contract by reference, is also attached. These documents are available on the Department's web site at www.dbhds.virginia.gov/OCC-default.htm. The Department will distribute Letters of Notification and the Community Automated Reporting System (CARS) contract software electronically soon. Letters of Notification contain initial allocations of state and federal funds to community services boards (CSBs), the behavioral health authority, and the local government department with a policy-advisory CSB, all of which are referred to as Boards or CSBs in the contract documents and this memorandum.

The attached documents incorporate the changes proposed in the FY 2012 Performance Contract exposure drafts, which were distributed for public comment on December 31, 2010 with a cover memorandum that summarized changes from the FY 2011 Performance Contract. The attached documents also reflect comments received during the 60-day public comment period required by § 37.2-508 of the Code of Virginia, the work of the Performance Contract Committee established by the Department and the Virginia Association of Community Services Boards, and comments from Department staff. The Performance Contract Committee decided to focus on only a few changes in the FY 2012 contract. Changes from the FY 2012 exposure drafts are summarized below.

Performance Contract Changes

1. In several places in the Performance Contract, such as section 4.c.7.) on page 4,references to the Admission and Discharge Protocols for Individuals with Intellectual Disabilities are updated to reflect the current version, effective on March 4, 2011.
2. Section 6.c.1.) e.) on page 8 is revised to reflect current practice, and the CARS acronym is spelled out.

3. Sections 6.c.3.) and 4.) and 7.d.1.), 2.), 3.), and 5.) on pages 9, 12, and 13 are revised to be consistent with language in section 6.c.4.) and clarify the role of the VACSB Data Management Committee in representing Boards, reflecting the recently reissued memo on Approving CSB Surveys and Establishing Reporting Requirements, referenced in section 7.d.4.)..
4. Section 10.d on page 18 about Regional Management Structures or Processes for Individuals Moving Among Regions or Providers is deleted since it is archaic; nothing has been done on this in several years. In its place, language is added about developing Quality Improvement Measures.
5. Pages AF-3 through AF-7 on pages 22 through 26 of Exhibit A include several footnotes related to the restricted or earmarked status of many state general or federal block grant funding sources. The footnotes incorporate recommendations of the Performance Contract Restricted Funds Work Group from the document it produced, Restricted, Earmarked, and Un-earmarked Funds in FY 2011 and FY 2012.
6. The Supplemental Information form on page 28 is streamlined and revised to be consistent with terms in other parts of Exhibit A.
7. Exhibit B is revised to combine the Affirmations in old section IV with the Performance Expectations and Goals in sections I, II, and III. Also, old subsection E in section I is merged into subsection D, since they address the same topic. This will eliminate a lot of duplicative language without changing the substance of the exhibit. The revisions in sections I, II, and III contain no new substantive requirements.
8. A new section IV is added to Exhibit B on page 36, Employment and Housing Opportunities Expectation Affirmations. This is related to *Creating Opportunities* Plan activities.
9. Continuous Quality Improvement Process Measure I.B.4 is deleted since it was linked to a reporting requirement that was eliminated in the 2011 Appropriation Act.
10. References to the Web Site CSB and State Facility Accountability Measures is deleted; this is being replaced by the Quality Improvement Measures activity described in section 10.d on page 18 of the contract body (item 4 above).
11. Section I.A.9 of Exhibit K on pages 59 and 60 was substantially revised in response to feedback from CSB finance directors, submitted in response to proposed language in the exposure draft.

Partnership Agreement Changes

1. Core Values 15 and 16 on page 6 are revised to reflect recommendations from the *Creating Opportunities* Employment and Housing Implementation Teams.
2. Item 1.d under Section 5: Advancing the Vision on page 6 is revised because it contains an archaic reference, is too specific, and the ROSI recommendation is addressed in Exhibit C of the Performance Contract.
3. Section 15 on page 11 is revised to emphasize the partnership perspective in relation to the *Creating Opportunities* Plan.

CSB Administrative Requirements Changes:

1. The reference on page 13 of Appendix A of the CSB Administrative Requirements to the Admission and Discharge Protocols for Individuals with Intellectual Disabilities is updated to reflect the current version, effective on March 4, 2011.

2. Sections 11 and 12 on page 29 of Appendix B are revised to clarify the language and reflect current practice.

All of the contract's Exhibit A will be submitted electronically, using CARS software supplied by the Department. More detailed information about which parts of the contract must be submitted on paper is contained in Exhibit E of the contract, the Performance Contract Process. The CARS software also contains Table 2: FY 2012 Board Management Salary Costs, which enables CSBs and the Department to respond to requirements in § 37.2-504 of the Code of Virginia. This table also collects FTE information by program area and for services available outside of a program area, including numbers of peer providers. Peer providers are staff who self-identify as individuals receiving services and have been hired specifically as peer providers. Staff who have not been hired as peer providers, even if they have a mental health or substance use disorder or intellectual disability, should not be reported as peer providers.

The Department is distributing FY 2012 contract documents electronically, rather than as paper copies by mail. This enables the Department to distribute these contract documents more quickly and easily and allows recipients to distribute the documents to others more rapidly and efficiently.

To be accepted for processing by the Department, a performance contract must satisfy the criteria in Exhibits E and I of the contract.

1. Exhibit A, the first two pages of Exhibit H, and Table 2 must be submitted to the Department's Office of Information Technology Services using CARS software and must be complete and accurate.
2. Since the contract is being distributed electronically to CSBs, the parts of the contract that are submitted on paper should be printed, signed where necessary, and mailed to the Office of Community Contracting at the same time that Exhibits A and H are submitted. These parts include: the signature page of the contract body (page 19), the signature page of Exhibit B, Exhibit D (if applicable), Exhibit F (two pages), the first page of Exhibit G, the Board's current organization chart (the third page of Exhibit H); Exhibit J (if applicable), and the signature page of the Partnership Agreement (page 12). The second page of Exhibit G must be submitted as soon as possible and no later than September 30. The Department must receive all parts of the contract submitted on paper before a contract submission will be considered complete.
3. Exhibit A must conform to the allocations of state and federal funds in the Letter of Notification enclosures, unless amounts have been revised by or changes negotiated with the Department and confirmed by the Department in writing. Revenues must equal costs on all contract forms or differences must be explained on the Financial Comments form.
4. Contracts must contain actual appropriated amounts of local matching funds. If a CSB cannot include the minimum 10 percent local matching funds in its contract, it must submit a written request for a waiver of the matching funds requirement, pursuant to § 37.2-509 of the Code of Virginia, to the Office of Community Contracting with its contract. More information about the waiver request is contained in an attachment to this memorandum.

The FY 2012 contract and other materials described above are due in the Department's Office of Community Contracting by **June 17, 2011,** except for Exhibits A and H (the first two pages), which are submitted to the Department's Office of Information Technology Services by the same date. More detailed information about submitting Exhibits A and H (the first two pages) in CARS will be provided in the Performance Contract Workshop, conducted by Department staff later in May.

Section 37.2-508 or 37.2-608 of the Code of Virginia requires the CSB or behavioral health authority to make its proposed performance contract available for public review and solicit public comment for a period of 30 days before submitting it for the approval of the operating or administrative policy CSB or behavioral health authority board of directors or the comments of the local government department's policy advisory CSB. That same Code section authorizes the Department to provide up to six semi-monthly payments of state and federal funds to allow sufficient time to complete public review and comment, local government approval, and Department negotiation and approval of the contract. The Performance Contract Process (Exhibit E) automatically provides the first two semi-monthly July payments to all CSBs, whether or not a contract has been submitted. The Process conditions the next four semi-monthly payments (two in August and two in September) on the Department's receipt of a complete performance contract.

Once a performance contract is received in the Department, the Community Contracting Administrator will review it and notify the CSB within five working days that it is or is not accepted for review by the Department. Unacceptable contracts will need to be revised before the Department will process them. If CSBs have any questions about this memo or the contract documents, please e-mail or call Joel Rothenberg, the Community Contracting Administrator, at joel.rothenberg@dbhds.virginia.gov or (804) 786-6089. If other recipients of this memorandum have any questions about it or the contract documents, please e-mail or call me at paul.gilding@dbhds.virginia.gov or (804) 786-4982. Thank you.

Enclosures (4)

PRG/prg

pc:

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FY 2012 Community Services Performance Contract

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FY 2012 Community Services Performance Contract

1. Contract Purpose

a. Title 37.2 of the Code of Virginia establishes the Virginia Department of Behavioral Health and Developmental Services, hereafter referred to as the Department, to ensure delivery of publicly funded services and supports to individuals with mental health or substance use disorders or intellectual disability and authorizes the Department to fund community mental health and substance abuse (behavioral health) and developmental services.

b. Sections 37.2-500 through 37.2-511 of the Code of Virginia require cities and counties to establish community services boards for the purpose of providing local public mental health, developmental, and substance abuse services; §§ 37.2-600 through 37.2-614 authorize certain cities or counties to establish behavioral health authorities that plan and provide those same local public services. In this contract, the community services board, local government department with a policy-advisory community services board, or behavioral health authority named on page 19 of this contract will be referred to as the Board or CSB.

c. Section 37.2-500 or 37.2-601 of the Code of Virginia states that, in order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the Board shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services. The Board fulfills this function in accordance with State Board Policy 1035 for any person who is located in the Board's service area and needs mental health, developmental, or substance abuse services.

d. Sections 37.2-508 and 37.2-608 of the Code of Virginia and State Board Policy 4018 establish this contract as the primary accountability and funding mechanism between the Department and the Board.

e. The Board is applying for the assistance provided under Chapter 5 or 6 of Title 37.2 of the Code of Virginia by submitting this performance contract to the Department in accordance with § 37.2-508 or § 37.2-608 of the Code of Virginia.

f. This contract establishes requirements and responsibilities for the Board and the Department that are not established through other means, such as statute or regulation. The Community Services Board Administrative Requirements, which, by agreement of the parties, is hereby incorporated into and made a part of this contract by reference, includes or incorporates by reference ongoing statutory, regulatory, policy, and other requirements that are not contained in this contract. This document is available on the Department's web site at www.dbhds.virginia.gov/OCC-default.htm.

g. The Department and the Board enter into this performance contract for the purpose of funding services provided directly or contractually by the Board in a manner that ensures accountability to the Department and quality of care for individuals receiving services and implements the vision articulated in State Board Policy 1036 of an individual-driven system of services and supports that promotes self-determination, empowerment, recovery, resilience, health, and the highest possible level of participation by individuals receiving services in all aspects of community life, including work, school, family, and other meaningful relationships; and the Board and the Department agree as follows.

2. **Relationship:** The Department functions as the state authority for the public mental health, developmental, and substance abuse services system, and the Board functions as the local authority for that system. The relationship between and roles and responsibilities of the Department and the Board are described in the Partnership Agreement between the parties, which, by agreement of the parties, is hereby incorporated into and made a part of this contract by reference. This contract shall not be construed to establish any employer-employee or principal-agent relationship between employees of the Board or its board of directors and the Department.

3. **Contract Term:** This contract shall be in effect for a term of one year, commencing on July 1, 2011 and ending on June 30, 2012.

4. **Scope of Services**

   a. **Services:** Exhibit A of this contract includes all mental health, developmental, and substance abuse services provided or contracted by the Board that are supported by the resources described in section 5 of this contract. Services and certain terms used in this contract are defined in the current Core Services Taxonomy, which, by agreement of the parties, is hereby incorporated into and made a part of this contract by reference. The Taxonomy is on the Department's web site at www.dbhds.virginia.gov/OCC-default.htm.

   b. **Expenses for Services:** The Board shall provide to the extent practicable those services that are funded within the revenues and expenses set forth in Exhibit A and documented in the Board's financial management system. The Board shall distribute its administrative and management expenses across some or all of the three program areas on a basis that is in accordance with Uniform Cost Report principles, is auditable, and satisfies Generally Accepted Accounting Principles.

   c. **Continuity of Care:** In order to partially fulfill its responsibility in § 37.2-500 or 37.2-601 of the Code of Virginia and State Board Policy 1035 to function as the single point of entry into publicly funded services in its service area, the Board shall follow the Continuity of Care Procedures in Appendix A of the Community Services Board Administrative Requirements.

      1.) **Coordination of Intellectual Disability Waiver Services:** The Board shall provide case management services to individuals who are receiving services under the Medicaid Intellectual Disability Home and Community-Based Waiver (ID Waiver). In its capacity as the case manager for these individuals and in order to receive payment for services from the Department of Medical Assistance Services (DMAS), the Board shall develop individual service authorization requests (ISARs) for Waiver services and submit them to the Department for preauthorization, pursuant to the current DMAS/ DBHDS Interagency Agreement, under which the Department preauthorizes ISARs as a delegated function from the DMAS. As part of its specific case management responsibilities for individuals receiving ID Waiver services, the Board shall coordinate and monitor the delivery of all services to individuals it serves, including monitoring the receipt of services in an individual's ISAR that are provided by independent vendors who are reimbursed directly by the DMAS, to the extent that the Board is not prohibited from doing so by such vendors (reference the DMAS *Intellectual Disability Community Services Manual*). The Board may raise issues regarding its efforts to coordinate and monitor services provided by independent vendors to the applicable funding or licensing authority, such as the Department, DMAS, or Virginia Department of Social Services. In fulfilling this service coordination responsibility, the Board shall not restrict or seek to influence an individual's choice among qualified service providers. This prohibition is not intended to restrict the ability of Board case managers to make recommendations, based on their professional judgment, to individuals regarding those available service options that best meet the terms of the individuals' ISPs and allow for the most effective coordination of services. This section does not, nor shall it be construed to, make the Board legally liable for the actions of independent vendors of ID Waiver services who are reimbursed directly by the DMAS.

      2.) **Linkages with Health Care:** When it arranges for the care and treatment of individuals in hospitals, inpatient psychiatric facilities, or psychiatric units of hospitals, the Board shall assure its staff's cooperation with those hospitals, inpatient psychiatric facilities, or psychiatric units of hospitals, especially emergency rooms and emergency room physicians, in order to promote continuity of care for those individuals.

3.) **Coordination with Local Psychiatric Hospitals:** When the Board performed the preadmission screening and referral to the Board is likely upon the discharge of an involuntarily admitted individual, the Board shall coordinate or, if it pays for the service, approve an individual's admission to and continued stay in a psychiatric unit or hospital and collaborate with that unit or hospital to assure appropriate treatment and discharge planning to the least restrictive setting and to avoid the use of these facilities when the service is no longer needed.

4.) **Access to Services:** The Board shall not require an individual to receive case management services in order to receive other services that it provides, directly or contractually, unless it is permitted to do so by applicable regulations or the person is an adult with a serious mental illness, a child with or at risk of serious emotional disturbance, or an individual with an intellectual disability or a substance use disorder, the person is receiving more than one other service from the Board, or a licensed clinician employed or contracted by the Board determines that case management services are clinically necessary for that individual. Federal Medicaid targeted case management regulations forbid using case management to restrict access to other services by Medicaid recipients or compelling Medicaid recipients to receive case management if they are receiving another service.

5.) **PACT Criteria:** If the Board receives state general or federal funds for a Program of Assertive Community Treatment (PACT), it shall satisfy the following criteria:

a.) Meet PACT state hospital bed use targets;

b.) Prioritize providing services to individuals with serious mental illnesses who are frequent recipients of inpatient services or are homeless;

c.) Achieve and maintain a caseload of 80 individuals receiving services after two years from the date of initial funding by the Department; and

d.) Participate in technical assistance provided by the Department.

6.) **Preadmission Screening:** The Board shall provide preadmission screening services pursuant to § 37.2-505 or § 37.2-606, § 37.2-805, § 37.2-809 through § 37.2-813, § 37.2-814, and § 16.1-335 et seq. of the Code of Virginia and in accordance with the Continuity of Care Procedures in Appendix A of the Community Services Board Administrative Requirements for any person who is located in the Board's service area and may need admission for involuntary psychiatric treatment.

7.) **Discharge Planning:** The Board shall provide discharge planning pursuant to § 37.2-505 or § 37.2-606 of the Code of Virginia and in accordance with State Board Policies 1035 and 1036, the Continuity of Care Procedures, and the *Discharge Protocols for Community Services Boards and State Hospitals* issued by the Department on 12-01-2010 or the *Admission and Discharge Protocols for Individuals with Intellectual Disabilities* issued by the Department and effective on 03-01-2011 that by agreement of the parties are incorporated into and made a part of this contract by reference.

d. **Populations Served:** The Board shall provide needed services to adults with serious mental illnesses, children with or at risk of serious emotional disturbance, and individuals with intellectual disability or substance use disorder to the greatest extent possible within the resources available to it for this purpose. In accordance with § 37.2-508 or § 37.2-608 of the Code of Virginia, the Board shall report the unduplicated numbers of adults with serious mental illnesses, children with or at risk of serious emotional disturbance, and individuals with intellectual disability or substance use disorder that it serves during the term of this contract. These populations are defined in the Core Services Taxonomy, available on the Department's web site at www.dbhds.virginia.gov/OCC-default.htm.

5. **Resources:** Exhibit A of this contract includes the following resources: state general funds and federal funds appropriated by the General Assembly and allocated by the Department to the Board; balances of unexpended or unencumbered state general and federal funds retained by the Board and used in this contract to support services; local matching funds required by § 37.2-509 or § 37.2-611 of the Code of Virginia to receive allocations of state general funds; Medicaid Targeted Case Management, Rehabilitative Services (State Plan Option), and Intellectual Disability Home and Community-Based Waiver fees and any other fees, as required by § 37.2-504 or § 37.2-605 of the Code of Virginia; and any other revenues associated with or generated by the services shown in Exhibit A.

   a. **Allocations of State General and Federal Funds**: The Department shall inform the Board of its state general and federal fund allocations in a letter of notification. The Department may adjust allocation amounts during the term of this contract. The Commissioner or his designee shall communicate all adjustments to the Board in writing. Allocations of state general and federal funds shall be based on state and federal statutory and regulatory requirements, provisions of the Appropriation Act, State Board policies, and previous allocation amounts.

   b. **Allocations of New Appropriations of Additional State General Funds:** The Department shall work with representatives of the Board to develop a conceptual framework for allocating new appropriations of additional state general funds. This framework shall include a methodology for identifying the minimum amount of the appropriation needed by the smallest Boards to implement the intent of the new appropriation and criteria for allocating the remainder of the appropriation using population as a significant factor.

   c. **Conditions on the Use of Resources:** The Department can attach service requirements or specific conditions that it establishes for use of funds, separate from those established by other authorities, for example, applicable statutory or regulatory requirements such as licensing or human rights regulations or federal anti-discrimination requirements, only to the state general and federal funds that it allocates to the Board and to the 10 percent local matching funds that are required to obtain the Board's state general fund allocations.

6. **Board Responsibilities**

   a. **State Hospital Bed Utilization:** In accordance with § 37.2-508 or § 37.2-608 of the Code of Virginia, the Board shall identify or develop jointly with the Department and with input from private providers involved with the public mental health, developmental, and substance abuse services system mechanisms, such as the Discharge Protocols, Extraordinary Barriers to Discharge lists, and reinvestment or system transformation projects and activities, and employ these mechanisms collaboratively with state hospitals that serve it to manage the utilization of state hospital beds. Utilization will be measured by bed days received by individuals for whom the Board is the case management board.

   b. **Quality of Care**

      1.) **Clinical Consultation:** The Board may request the Department to provide professional consultations for clinically complex or difficult or medically complicated cases within the resources available for this purpose in the Department or its facilities and as permitted under 45 CFR § 164.506 (c) (1) when individuals or their authorized representatives have requested second opinions and with valid authorizations that comply with the Human Rights Regulations and the HIPAA Privacy Rule or when staff of the Board request such consultations for individuals it serves in the community, if the Board is not able to provide those second opinions or obtain this consultation within its resources.

      2.) **Quality Improvement and Risk Management:** The Board shall, to the extent possible, develop and implement quality improvement processes that utilize individual outcome

measures, provider performance measures, and other data or participate in its local government's quality improvement processes to improve services, ensure that services are provided in accordance with current acceptable professional practice, and enable the ongoing review of all major areas of the Board's responsibilities under this contract.

The Board shall, to the extent practicable, develop, implement, and maintain, itself or in affiliation with other Boards, a quality improvement plan incorporating Board provider performance measures, individual outcome measures, and human rights information. The Board shall, to the extent practicable, develop, implement, and maintain, itself or in affiliation with other Boards, a risk management plan or the Board shall participate in a local government's risk management plan. The Board shall work with the Department through the System Leadership Council to identify how the Board will address quality improvement activities.

The Board shall implement, in collaboration with other Boards in its region, the state hospitals and training centers serving its region, and private providers involved with the public mental health, developmental, and substance abuse services system, regional utilization management procedures and practices that reflect the Regional Utilization Management Guidance document adopted by the System Leadership Council on January 10, 2007 that by agreement of the parties is hereby incorporated into and made a part of this contract by reference. This document is available on the Department's web site at www.dbhds.virginia.gov/OCC-default.htm.

3.) **Continuous Quality Improvement Process:** The Board shall address and report on the performance expectations and goals in Exhibit B of this contract as part of the Continuous Quality Improvement Process supported by the Department and the Board.

4.) **Individual Outcome and Board Provider Performance Measures**

a.) **Measures:** Pursuant to § 37.2-508 or § 37.2-608 of the Code of Virginia, the Board shall report the individual outcome, Board provider performance, individual satisfaction, and individual and family member participation and involvement measures in Exhibit C of this contract to the Department. These reporting requirements are contingent on the Department supplying any necessary specifications and software to the Board in time for the Board to make needed changes in its information system.

b.) **Board Performance Measures:** The Department may negotiate specific, time-limited measures with the Board to address identified performance concerns or issues. When negotiated, such measures shall be included as Exhibit D of this contract.

c.) **Individual Satisfaction Survey:** Pursuant to § 37.2-508 or § 37.2-608 of the Code of Virginia, the Board shall participate in an assessment of the satisfaction of individuals receiving services in accordance with Exhibit C of this contract.

d.) **Substance Abuse Youth Surveys:** The Board shall work closely with community-based prevention planning groups, schools, and local governments to support and enable the administration of the Virginia Community Youth Survey and the Virginia Youth Tobacco Survey, which are mandated by federal funding sources and are necessary for continuation of federal block grant funding.

e.) **Prevention Services Participants and Program Evaluations:** The Board shall evaluate a minimum of 20 percent of participants in evidence-based prevention programs using program-specific instruments, which are evaluation instruments and processes developed by the program developer for that program. The Board shall conduct program-specific evaluations of all federal Substance Abuse Prevention and Treatment grant-supported prevention programs as agreed in the grant contract

with the Department. The Board shall use community-level abstinence data from regional community youth survey data for alcohol, tobacco, and other drug use, perceptions of harm and disapproval, and other indicator data, including archival data listed in the National Outcome Measures, for outcome evaluation of environmental strategies and community-based processes.

f.) **Recovery Orientation:** The Board shall implement a plan for assessing and increasing its recovery orientation over time, initially for adults with serious mental illnesses, in accordance with Exhibit C and Section 5, Advancing the Vision, of the Partnership Agreement and shall report on its recovery orientation to the Department by March 31, 2012.

5.) **Program and Service Reviews:** The Department may conduct or contract for reviews of programs or services provided or contracted by the Board under this contract to examine their quality or performance at any time as part of its monitoring and review responsibilities or in response to concerns or issues that come to its attention, as permitted under 45 CFR § 164.512 (a), (d), and (k) (6) (ii) and as part of its health oversight functions under § 32.1-127.1:03 (D) (6) and § 37.2-508 or § 37.2-608 of the Code of Virginia or with a valid authorization by the individual receiving services or his authorized representative that complies with the Human Rights Regulations and the HIPAA Privacy Rule.

6.) **Response to Complaints:** The Board shall implement procedures to respond to complaints from individuals receiving services, family members, advocates, or other stakeholders as expeditiously as possible in a manner that seeks to achieve a satisfactory resolution and advises the complainant of any decision and the reason for it. The Board shall acknowledge complaints that the Department refers to it within five days of receipt and provide follow up commentary on them to the Department within 10 days of receipt.

c. **Reporting Requirements**

1.) **Board Responsibilities:** For purposes of reporting to the Department, the Board shall comply with State Board Policy 1037 and:

a.) provide monthly Community Consumer Submission (CCS) extracts that report individual characteristic and service data to the Department, as required by § 37.2-508 or § 37.2-608 of the Code of Virginia, the federal Substance Abuse and Mental Health Services Administration, and Part C of Title XIX of the Public Health Services Act - Block Grants, § 1943 (a) (3) and § 1971 and § 1949, as amended by Public Law 106-310, and as permitted under 45 CFR §§ 164.506 (c) (1) and (3) and 164.512 (a) (1) and (d) and under §32.1-127.1:03.D (6) of the Code of Virginia, and as defined in the current CCS Extract Specifications and Design Specifications (including the current Business Rules), which are available on the Department's web site at www.dbhds.virginia.gov/OCC-default.htm and are hereby incorporated into and made a part of this contract by reference and by agreement of the parties;

b.) follow the current Core Services Taxonomy and CCS Extract Specifications and Design Specifications (including the current Business Rules) when responding to reporting requirements established by the Department;

c.) complete the National Survey of Substance Abuse Treatment Services (N-SSATS), formerly the Uniform Facility Data Set (UFDS), annually that is used to compile and update the National Directory of Drug and Alcohol Abuse Treatment Programs and the on-line Substance Abuse Treatment Facility Locator;

d.) report Inventory of Mental Health Organizations information and data in accordance with federal requests to the greatest extent possible;

e.) report KIT Prevention System data on all substance abuse prevention services provided by the Board, including services that are supported wholly or in part by the Substance Abuse Prevention and Treatment (SAPT) Block Grant allocation for prevention services, LINK prevention, and substance abuse prevention services funded by other grants and reported under substance abuse in the Community Automated Reporting System (CARS), and enter KIT Prevention System data by June 15 on goals, objectives, and programs approved by the community prevention planning coalition;

f.) supply information to the Department's Forensics Information Management System for individuals adjudicated not guilty by reason of insanity (NGRI), as required under § 37.2-508 or § 37.2-608 of the Code of Virginia and as permitted under 45 CFR §§ 164.506 (c) (1) and (3), 164.512 (d), and 164.512 (k) (6) (ii);

g.) report individual, service, financial, and other information on Part C services that it provides, previously reported through the CARS and CCS, to the Department through a separate reporting system maintained by the Department;

h.) report individual, service, financial, and other information on jail diversion and juvenile detention center services, previously reported through separate manual reports, only through the CARS and CCS; and

i.) report data and information required by the current Appropriation Act.

2.) Routine Reporting Requirements: The Board shall account for all services, revenues, expenses, and costs accurately and submit reports to the Department in a timely manner using current CARS, CCS, or other software provided by the Department. All reports shall be provided in the form and format prescribed by the Department. The Board shall provide the following information and meet the following reporting requirements:

a.) types and service capacities of services provided, costs for services provided, and revenues received by source and amount and expenses paid by program area and for services available outside of a program area, reported mid-year and at the end of the fiscal year through CARS, and types and amounts of services provided to each individual, monthly through the current CCS;

b.) demographic characteristics of individuals receiving services, monthly through the current CCS;

c.) numbers of adults with serious mental illnesses, children with serious emotional disturbance, children at risk of serious emotional disturbance, and individuals with intellectual disability, or substance use disorder, monthly through the current CCS;

d.) performance expectations and goals and individual outcome and Board provider performance measures in Exhibits B and C;

e.) community waiting list information for the Comprehensive State Plan that is required by § 37.2-315 of the Code of Virginia, as permitted under § 32.1-127.1:03 (D) (6) of the Code of Virginia and 45 CFR § 164.512 (d) and (k) (6) (ii) (when required);

f.) State Facility Discharge Waiting List Data Base reports using ACCESS software supplied by the Department;

g.) Federal Balance Report (October 31);

h.) Total numbers of individuals served for the Mandatory Outpatient Treatment, Discharge Assistance Project, Mental Health Child and Adolescent Services Initiative, ID Waiver Services, and other Consumer Designation (900) Codes, monthly through the current CCS;

i.) PATH reports (mid-year and at the end of the fiscal year);

j.) Uniform Cost Report information through CARS (annually) and

k.) other reporting requirements in the current CCS Extract or Design Specifications.

3.) **Subsequent Reporting Requirements:** In accordance with State Board Policy 1037, the Board shall work with the Department through the Virginia Association of Community Services Boards (VACSB) Data Management Committee (DMC) to ensure that current data and reporting requirements are consistent with each other and the current Core Services Taxonomy, the current CCS, and the Treatment Episode Data Set (TEDS) and other federal reporting requirements. The Board also shall work with the Department through the DMC in planning and developing any additional reporting or documentation requirements beyond those identified in this contract, such as the federal mental health and substance abuse National Outcomes Measures (NOMS) when they become effective, to ensure that such requirements are consistent with the current Core Services Taxonomy, the current CCS, and TEDS and other federal reporting requirements.

4.) **Streamlining Reporting Requirements:** The Board shall work with the Department through the VACSB DMC to review existing reporting requirements outside of the current CCS to determine if they are still necessary and, if they are, to streamline those reporting requirements as much as possible and to ensure they are consistent with the current CCS Extract Specifications and Core Services Taxonomy.

d. **Discharge Assistance Project (DAP)**

1.) **Board Responsibilities:** If it participates in any DAP funded by the Department, the Board shall be responsible for ensuring the effective utilization of those funds, without submitting individualized services plans (ISPs) to the Department for approval or preauthorization.

2.) **Department Review:** The Board agrees to participate in any utilization review or utilization management activities conducted by the Department involving services provided under the DAP. Protected health information may be disclosed as permitted under 45 CFR §§ 164.506 (c) (1), (3), and (4) and 164.512 (k) (6) (ii).

e. **Compliance Requirements:** The Board shall comply with all applicable federal, state, and local laws and regulations, including those contained or referenced in the Community Services Board Administrative Requirements and in Exhibits F and K of this contract, as they affect the operation of this contract. Any substantive change in the CSB Administrative Requirements, except changes in statutory, regulatory, policy, or other requirements or in other documents incorporated by reference in it, which changes are made in accordance with processes or procedures associated with those statutes, regulations, policies, or other requirements or documents, shall constitute an amendment of this contract, made in accordance with applicable provisions of the Partnership Agreement, that requires a new contract signature page, signed by both parties.

If any laws or regulations that become effective after the execution date of this contract substantially change the nature and conditions of this contract, they shall be binding upon the parties, but the parties retain the right to exercise any remedies available to them by law or other provisions of this contract. The Board shall comply with the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder by their compliance dates, except where the HIPAA requirements and applicable state law or regulations are contrary, and state statutes or regulations are more stringent, as defined in 45 CFR § 160.202, than the related HIPAA requirements. The Board shall ensure sensitive data, including HIPAA-protected health information and other confidential data, exchanged electronically with the Department meets the requirements in the FIPS 140-2 standard. The Department will accept 128 bit encryption methods that are FIPS 140-2 compliant.

The Board shall follow the procedures and satisfy the requirements in the Performance Contract Process and the Administrative Performance Standards, contained in Exhibits E and I respectively of this contract. The Board shall document its compliance with §§ 37.2-501, 37.2-504, and 37.2-508 or §§ 37.2-602, 37.2-605, and 37.2-608 of the Code of Virginia in Exhibits G and H of this contract.

f. **Regional Programs:** The Board shall manage or participate in the management of, account for, and report on regional programs in accordance with the Regional Program Operating Principles and the Regional Program Procedures in Appendices E and F of the current Core Services Taxonomy. The Board agrees to participate in any utilization review or utilization management activities conducted by the Department involving services provided through a regional program. Protected health information may be disclosed as permitted under 45 CFR §§ 164.506 (c) (1) and (3) and 164.512 (k) (6) (ii).

g. **Joint Agreements:** If the Board enters into a joint agreement pursuant to § 37.2-512 or § 37.2-615 of the Code of Virginia, the Board shall describe the agreement in Exhibit J of this contract and shall attach a copy of the joint agreement to that Exhibit.

h. **Intensive Care Coordination for the Comprehensive Services Act**

1.) As the single point of entry into publicly funded mental health, developmental, and substance abuse services pursuant to § 37.2-500 of the Code of Virginia and as the exclusive provider of Medicaid targeted mental health and developmental case management services, the Board is the most appropriate provider of intensive care coordination (ICC) services through the Comprehensive Services Act for At-Risk Youth and Families (CSA). The Board and the local Community Policy and Management Team (CPMT) in its service area shall determine collaboratively the most appropriate and cost-effective provider of ICC services for children who are placed in or are at risk of being placed in residential care through the CSA program in accordance with guidelines developed by the State Executive Council and shall develop a local plan for ICC services that best meets the needs of those children and their families. If there is more than one CPMT in the Board's service area, the CPMTs and the Board may work together as a region to develop a plan for ICC services.

2.) If the Board is identified as the provider of ICC services, it shall work in close collaboration with its CPMT(s) and Family Assessment and Planning Team(s) to implement ICC services, to assure adequate support for these services through local CSA funds, and to assure that all children receive appropriate assessment and care planning services. Examples of ICC activities include: efforts at diversion from more restrictive levels of care, discharge planning to expedite return from residential or facility care, and community placement monitoring and care coordination work with family members and other significant stakeholders. If the Board contracts with another entity to provide ICC services, the Board shall remain fully responsible for ICC services, including monitoring the services provided under the contract. Subject to the approval of the local CPMT(s), the Board may phase in ICC services as a way to facilitate meaningful integration of ICC services with existing services and supports or as a means of maximizing the limited resources available within the community.

7. Department Responsibilities

a. **Funding:** The Department shall disburse the state general funds displayed in Exhibit A, subject to the Board's compliance with the provisions of this contract, prospectively on a semi-monthly basis to the Board. Payments may be revised to reflect funding adjustments. The Department shall disburse federal grant funds that it receives to the Board in accordance with the requirements of the applicable federal grant and, wherever possible, prospectively on a semi-monthly basis. The Department shall make these payments in accordance with Exhibit E of this contract.

b. State Facility Services

1.) The Department shall make state facility services available, if appropriate, through its state hospitals and training centers, when individuals located in the Board's service area meet the admission criteria for these services.

2.) The Department shall track, monitor, and report on the Board's utilization of state hospital and training center beds and provide data to the Board about individuals receiving services from its service area who are served in state hospitals and training centers as permitted under 45 CFR §§ 164.506 (c) (1), (2), and (4) and 164.512 (k) (6) (ii). The Department shall post state hospital and training center bed utilization by the Board for all types of beds (adult, geriatric, child and adolescent, and forensic) on its Internet web site.

3.) The Department shall manage its state hospitals and training centers in accordance with State Board Policy 1035 to support service linkages with the Board, including adherence to the applicable provisions of the Continuity of Care Procedures, attached to the Community Services Board Administrative Requirements as Appendix A, and the *Discharge Protocols for Community Services Boards and State Hospitals* issued by the Department on 12-01-2010 or the *Admission and Discharge Protocols for Individuals with Intellectual Disabilities* issued by the Department and effective on 03-01-2011. The Department shall assure its state hospitals and training centers use teleconferencing technology to the extent practicable and whenever possible to facilitate the Board's participation in treatment planning activities and the Board's fulfillment of its discharge planning responsibilities for individuals in state hospitals and training centers for whom it is the case management Board.

4.) The Department shall involve the Board, as applicable and to the greatest extent possible, in collaborative planning activities regarding the future role and structure of state hospitals and training centers.

5.) **Recovery Orientation:** The Department shall ensure that each state hospital shall implement a plan for assessing and increasing its recovery orientation over time, initially for adults with serious mental illnesses, in accordance with Section 5, Advancing the Vision, of the Partnership Agreement, and each state hospital shall report on its recovery orientation to the Department by March 31, 2012.

c. Quality of Care

1.) The Department with participation from the Board shall identify individual outcome, Board provider performance, individual satisfaction, and individual and family member participation and involvement measures and emergency services and case management services performance expectations and goals for inclusion in this contract, pursuant to § 37.2-508 or § 37.2-608 of the Code of Virginia, and shall collect information about these measures and performance expectations and goals and work with the Board to use them as part of the Continuous Quality Improvement Process described in Exhibit B to improve services.

2.) The Department may provide professional consultations to the Board upon request for clinically complex or difficult or medically complicated cases within resources available for this purpose in the Department or its facilities and as permitted under 45 CFR § 164.506 (c) (1) when individuals receiving services or their authorized representatives have requested second opinions and with valid authorizations that comply with the Human Rights Regulations and the HIPAA Privacy Rule or when staff of the Board request such consultations for individuals it serves in the community, if the Board is not able to provide those second opinions or obtain this consultation within its resources.

3.) The Department shall work with the Board, state hospitals and training centers serving it, and private providers involved with the public mental health, developmental, and substance abuse services system, to implement regional utilization management procedures and practices reflected in the Regional Utilization Management Guidance document, adopted by the System Leadership Council on January 10, 2007, which, by agreement of the parties, is hereby incorporated into and made a part of this contract by reference.

4.) **Recovery Orientation:** The Department shall implement a plan for assessing and increasing its recovery orientation over time, initially for adults with serious mental illnesses, in accordance with Exhibit C and Section 5, Advancing the Vision, of the Partnership Agreement and shall report on its recovery orientation on its web site by March 31, 2012. It shall work with the Board within the resources available to support the Board's efforts to assess and increase its recovery orientation over time and review and provide feedback to the Board on its efforts in this area.

5.) **Continuity of Care:** In order to fulfill its responsibilities related to discharge planning, the Department shall comply with § 37.2-837 of the Code of Virginia, State Board Policy 1036, the *Discharge Protocols for Community Services Boards and State Hospitals* issued by the Department on 12-01-2010 or the *Admission and Discharge Protocols for Individuals with Intellectual Disabilities* issued by the Department and effective on 03-01-2011, and the Continuity of Care Procedures, included in the Community Services Board Administrative Requirements as Appendix A.

d. Reporting Requirements

1.) In accordance with State Board Policy 1037, the Department shall work with Boards through the Virginia Association of Community Services Boards Data Management Committee (DMC) to ensure that current data and reporting requirements are consistent with each other and with the current Core Services Taxonomy, the current Community Consumer Submission (CCS), and TEDS and other federal reporting requirements. The Department also shall work with Boards through the DMC in planning and developing any additional reporting or documentation requirements beyond those identified in this contract, such as the federal mental health and substance abuse National Outcomes Measures (NOMS) when they become effective, to ensure that such requirements are consistent with the current Core Services Taxonomy, the current CCS, and TEDS and other federal reporting requirements.

2.) The Department shall collaborate with Boards through the DMC in the implementation and modification of the current Community Consumer Submission (CCS), which reports individual characteristic and service data that is required under § 37.2-508 or § 37.2-608 of the Code of Virginia, the federal Substance Abuse and Mental Health Services Administration, and Part C of Title XIX of the Public Health Services Act – Block Grants, §1943 (a) (3) and § 1971 and § 1949, as amended by Public Law 106-310, to the Department and is defined in the current CCS Extract Specifications and Design Specifications (including the current Business Rules). The Department will receive and use individual characteristic and service data disclosed by the Board through the CCS as permitted under 45 CFR §§ 164.506 (c) (1) and (3) and 164.512 (a) (1) and under § 32.1-127.1:03.D (6) of the Code of Virginia and shall implement procedures to protect the confidentiality of this information pursuant to § 37.2-504 or § 37.2-605 of the Code of Virginia and HIPAA.

3.) The Department shall work with Boards through the DMC to reduce the number of data elements required whenever this is possible.

4.) The Department shall ensure that all surveys and requests for data have been reviewed for cost effectiveness and developed through a joint Department and Board process.

The Department shall comply with the Procedures for Approving CSB Surveys, Questionnaires, and Data Collection Instruments and Establishing Reporting Requirements, reissued by Commissioner James Stewart on March 4, 2011.

5.) The Department shall work with Boards through the DMC to review existing reporting requirements outside of the current CCS to determine if they are still necessary and, if they are, to streamline those reporting requirements as much as possible and to ensure they are consistent with the current CCS Extract Specifications and Core Services Taxonomy.

e. **Discharge Assistance Project (DAP)**

1.) **Department Responsibilities:** If the Board participates in any DAP funded by the Department, the Department agrees that the Board shall be responsible for ensuring the effective utilization of those funds, without submitting individualized services plans to the Department for preauthorization or approval.

2.) **Department Review:** The Department may conduct utilization review or utilization management activities involving services provided by the Board under the DAP. If such activities involve the disclosure of protected health information, the information may be used and disclosed as permitted under 45 CFR §§ 164.506 (c) (1), (3), and (4) and 164.512 (k) (6) (ii).

f. **Compliance Requirements:** The Department shall comply with all applicable state and federal statutes and regulations, including those contained or referenced in the Community Services Board Administrative Requirements and Exhibits F and K of this contract, as they affect the operation of this contract. Any substantive change in the Community Services Board Administrative Requirements, except changes in statutory, regulatory, policy, or other requirements or in other documents incorporated by reference in it, which changes are made in accordance with processes or procedures associated with those statutes, regulations, policies, or other requirements or documents, shall constitute an amendment of this contract, made in accordance with applicable provisions of the Partnership Agreement, that requires a new contract signature page, signed by both parties.

If any laws or regulations that become effective after the execution date of this contract substantially change the nature and conditions of this contract, they shall be binding upon the parties, but the parties retain the right to exercise any remedies available to them by law or other provisions of this contract. The Department and its state hospitals and training centers shall comply with the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder by their compliance dates, except where the HIPAA requirements and applicable state law or regulations are contrary, and state statutes or regulations are more stringent, as defined in 45 CFR § 160.202, than the related HIPAA requirements. The Department shall ensure that any sensitive data, including HIPAA-protected health information and other confidential data, exchanged electronically with the Board meets the requirements in the FIPS 140-2 standard. The Department will use 128 bit encryption methods that are FIPS 140-2 compliant.

If the Board's receipt of DAP or state facility reinvestment project funds causes it to be out of compliance with the 10 percent local matching funds requirement in § 37.2-509 of the Code of Virginia, the Department shall grant an automatic waiver of that requirement, related to the DAP or state facility reinvestment project funds, as authorized by that Code section and State Board Policy 4010.

g. **Communication:** The Department shall provide technical assistance and written notification regarding changes in funding source requirements, such as regulations, policies, procedures, and interpretations, to the extent that those changes are known to the Department. The Department shall resolve, to the extent practicable, inconsistencies in state agency requirements that affect requirements in this contract.

h. **Regional Programs:** The Department may conduct utilization review or utilization management activities involving services provided by the Board through a regional program. If such activities involve the disclosure of protected health information, the information may be used and disclosed as permitted under 45 CFR §§ 164.506 (c) (1) and (3) and 164.512 (k) (6) (ii). If the Board's participation in a regional program, as defined in the Regional Program Principles and the Regional Program Procedures in Appendices E and F of the current Core Services Taxonomy, causes it to be out of compliance with the 10 percent local matching funds requirement in § 37.2-509 of the Code of Virginia, the Department shall grant an automatic waiver of that requirement, related to the funds for that regional program, as authorized by that Code section and State Board Policy 4010.

i. **Peer Review Process:** The Department shall implement a process in collaboration with volunteer Boards to ensure that at least five percent of community mental health and substance abuse programs receive independent peer reviews annually, per federal requirements and guidelines, to review the quality and appropriateness of services. The Department shall manage this process to ensure that peer reviewers do not monitor their own programs.

8. **Subcontracting:** The Board may subcontract any of the requirements in this contract. The Board shall remain fully and solely responsible and accountable for meeting all of its obligations and duties under this contract, including all services, terms, and conditions, without regard to its subcontracting arrangements. Subcontracting must comply with applicable statutes, regulations, and guidelines, including the Virginia Public Procurement Act. All subcontracted activities shall be formalized in written contracts between the Board and subcontractors. The Board agrees to provide copies of such contracts or other documents to the Department upon request.

   A subcontract means a written agreement between the Board and another party under which the other party performs any of the Board's obligations. Subcontracts, unless the context or situation supports a different interpretation or meaning, also may include agreements, memoranda of understanding, purchase orders, contracts, or other similar documents for the purchase of services or goods by the Board from another organization or agency or a person on behalf of an individual. If the Board hires an individual not as an employee but as a contractor (e.g., a part-time psychiatrist) to work within its programs, this does not constitute subcontracting under this section. Board payments for rent or room and board in a non-licensed facility (e.g., rent subsidies or a hotel room) do not constitute subcontracting under this section, and the provisions of this section, except for compliance with the Human Rights regulations, do not apply to the purchase of a service for one individual.

   a. **Subcontracts:** The written subcontract must, as applicable and at a minimum, state the activities to be performed, the time schedule and duration, the policies and requirements, including data reporting, that are applicable to the subcontractor, the maximum amount of money for which the Board may become obligated, and the manner in which the subcontractor will be compensated, including payment time frames. Subcontracts shall not contain provisions that require a subcontractor to make payments or contributions to the Board as a condition of doing business with the Board.

   b. **Subcontractor Compliance:** The Board shall require that its subcontractors comply with the requirements of all applicable federal and state statutes, regulations, policies, and reporting requirements that affect or are applicable to the services included in this contract. The Board shall require that any agency, organization, or person with which it intends to subcontract services that are included in this contract is fully qualified and possesses and maintains current all necessary licenses or certifications from the Department and other applicable regulatory entities before it enters into the subcontract and places individuals in the subcontracted service. The Board shall require all subcontractors that provide services to individuals and are licensed by the Department to maintain compliance with the Human

Rights Regulations adopted by the State Board. The Board shall, to the greatest extent practicable, require all other subcontractors that provide services purchased by the Board for individuals and are not licensed by the Department to develop and implement policies and procedures that comply with the Board's human rights policies and procedures or to allow the Board to handle allegations of human rights violations on behalf of individuals served by the Board who are receiving services from such subcontractors. When it funds providers such as family members, neighbors, individuals receiving services, or others to serve individuals, the Board may comply with these requirements on behalf of those providers, if both parties agree.

c. **Subcontractor Dispute Resolution:** The Board shall include contract dispute resolution procedures in its contracts with subcontractors.

d. **Quality Improvement Activities:** The Board shall, to the extent practicable, incorporate specific language in its subcontracts regarding their quality improvement activities. Each vendor that subcontracts with the Board should have its own quality improvement system in place or should participate in the Board's quality improvement program.

9. Terms and Conditions

a. **Availability of Funds:** The Department and the Board shall be bound by the provisions of this contract only to the extent of the funds available or that may hereafter become available for the purposes of the contract.

b. **Compliance:** The Department may utilize a variety of remedies, including requiring a corrective action plan, delaying payments, and terminating the contract, to assure Board compliance with this contract. Specific remedies, described in Exhibit I of this contract, may be taken if the Board fails to satisfy the reporting requirements in this contract.

c. **Disputes:** Resolution of disputes arising from Department contract compliance review and performance management efforts or from actions by the Board related to this contract may be pursued through the dispute resolution process in section 9.f, which may be used to appeal only the following conditions:

1.) reduction or withdrawal of state general or federal funds, unless funds for this activity are withdrawn by action of the General Assembly or federal government, or adjustment of allocations or payments pursuant to section 5 of this contract;

2.) termination or suspension of the performance contract, unless funding is no longer available;

3.) refusal to negotiate or execute a contract modification;

4.) disputes arising over interpretation or precedence of terms, conditions, or scope of the performance contract;

5.) determination that an expenditure is not allowable under this contract; and

6.) determination that the performance contract is void.

d. **Termination**

1.) The Department may terminate this contract immediately, in whole or in part, at any time during the contract period if funds for this activity are withdrawn or not appropriated by the General Assembly or are not provided by the federal government. In this situation, the obligations of the Department and the Board under this contract shall cease immediately. The Board and the Department shall make all reasonable efforts to ameliorate any negative consequences or effects of contract termination on individuals receiving services and Board staff.

2.) The Board may terminate this contract immediately, in whole or in part, at any time during the contract period if funds for this activity are withdrawn or not appropriated by its local government(s) or other funding sources. In this situation, the obligations of the Board and the Department under this contract shall cease immediately. The Board and the Department shall make all reasonable efforts to ameliorate any negative consequences or effects of contract termination on individuals receiving services and Board staff.

3.) In accordance with § 37.2-508 or § 37.2-608 of the Code of Virginia, the Department may terminate all or a portion of this contract, after unsuccessful use of the remediation process described in section 9.e and after affording the Board an adequate opportunity to use the dispute resolution process described in section 9.f of this contract. A written notice specifying the cause must be delivered to the Board's board chairman and executive director at least 75 days prior to the date of actual termination of the contract. In the event of contract termination under these circumstances, only payment for allowable services rendered by the Board shall be made by the Department.

e. **Remediation Process:** The remediation process mentioned in § 37.2-508 or § 37.2-608 of the Code of Virginia is an informal procedure that shall be used by the Department and the Board to address a particular situation or condition identified by the Department or the Board that may, if unresolved, result in termination of the contract, in accordance with the provisions of section 9.d of this contract. The details of this remediation process shall be developed by the parties and added as an exhibit of this contract. This exhibit shall describe the situation or condition and include the performance measures that shall document a satisfactory resolution of the situation or condition.

f. **Dispute Resolution Process:** Disputes arising from any of the conditions in section 9.c of this contract shall be resolved using the following process.

1.) Within 15 days of the Board's identification or receipt of a disputable action taken by the Department or of the Department's identification or receipt of a disputable action taken by the Board, the party seeking resolution of the dispute shall submit a written notice to the Department's Director of Community Contracting, stating its desire to use the dispute resolution process. The written notice must describe the condition, nature, and details of the dispute and the relief sought by the party.

2.) The Director of Community Contracting shall review the written notice and determine if the dispute falls within the conditions listed in section 9.c. If it does not, the Director of Community Contracting shall notify the party in writing within seven days of receipt of the written notice that the dispute is not subject to this dispute resolution process. The party may appeal this determination to the Commissioner in writing within seven days of its receipt of the Director's written notification.

3.) If the dispute falls within the conditions listed in section 9.c, the Director of Community Contracting shall notify the party within seven days of receipt of the written notice that a panel will be appointed within 15 days to conduct an administrative hearing.

4.) Within 15 days of notification to the party, a panel of three or five disinterested persons shall be appointed to hear the dispute. The Board shall appoint one or two members; the Commissioner shall appoint one or two members; and the appointed members shall appoint the third or fifth member. Each panel member will be informed of the nature of the dispute and be required to sign a statement indicating that he has no interest in the dispute. Any person with an interest in the dispute shall be relieved of panel responsibilities and another person shall be selected as a panel member.

5.) The Director of Community Contracting will contact the parties by telephone and arrange for a panel hearing at a mutually convenient time, date, and place. The panel hearing shall be scheduled not more than 15 days after the appointment of panel

members. Confirmation of the time, date, and place of the hearing will be communicated to all parties at least seven days in advance of the hearing.

6.) The panel members shall elect a chairman and the chairman shall convene the panel. The party requesting the panel hearing shall present evidence first, followed by the presentation of the other party. The burden shall be on the party requesting the panel hearing to establish that the disputed decision or action was incorrect and to present the basis in law, regulation, or policy for its assertion. The panel may hear rebuttal evidence after the initial presentations by the Board and the Department. The panel may question either party in order to obtain a clear understanding of the facts.

7.) Subject to provisions of the Freedom of Information Act, the panel shall convene in closed session at the end of the hearing and shall issue written recommended findings of fact within seven days of the hearing. The recommended findings of fact shall be submitted to the Commissioner for a final decision.

8.) The findings of fact shall be final and conclusive and shall not be set aside by the Commissioner unless they are (1) fraudulent, arbitrary, or capricious; (2) so grossly erroneous as to imply bad faith; (3) in the case of termination of the contract due to failure to perform, the criteria for performance measurement are found to be erroneous, arbitrary, or capricious; or (4) not within the Board's purview.

9.) The final decision shall be sent by certified mail to both parties no later than 60 days after receipt of the written notice from the party invoking the dispute resolution process.

10.) Multiple appeal notices shall be handled independently and sequentially so that an initial appeal will not be delayed by a second appeal.

11.) The Board or the Department may seek judicial review of the final decision as provided in § 2.2-4365 of the Code of Virginia in the Circuit Court for the City of Richmond within 30 days of receipt of the final decision.

g. **Contract Amendment:** This contract, including all exhibits and incorporated documents, constitutes the entire agreement between the Department and the Board. The services identified in Exhibit A of this contract may be revised in accordance with the performance contract revision instructions contained in Exhibit E of this contract. Other provisions of this contract may be amended only by mutual agreement of the parties, in writing and signed by the parties hereto.

h. **Liability:** The Board shall defend or compromise, as appropriate, all claims, suits, actions, or proceedings arising from its performance of this contract. The Board shall obtain and maintain sufficient liability insurance to cover claims for bodily injury and property damage and suitable administrative or directors and officers liability insurance. These responsibilities may be discharged by means of a proper and sufficient self-insurance program operated by the state or a city or county government. The Board shall provide a copy of any such policy or program to the Department upon request. This contract is not intended to, and does not, create by implication or otherwise any basis for any claim or cause of action by a person or entity not a party to this contract, arising out of any claimed violation of any provision of this contract, nor does it create any claim or right on behalf of any person to services or benefits from the Board or the Department.

i. **Severability:** Each paragraph and provision of this contract is severable from the entire contract, and the remaining provisions shall nevertheless remain in full force and effect if any provision is declared invalid or unenforceable.

10. Areas for Future Resolution: On an ongoing basis, the Board and the Department agree to work together to identify and resolve barriers and policy and procedural issues that interfere with the most effective and efficient delivery of public services. This section identifies issues

and topics that the Board and the Department agree to work on collaboratively during the term of this contract in order to resolve them during that period or later, if necessary. Issues and topics may be added at any time by mutual agreement through amendment of this contract. The Board or representatives of the Board and the Department will establish work groups where appropriate to address these issues and topics. The Department and the Board also may address issues and topics through the System Leadership Council, which is described in the Partnership Agreement.

a. **Evidence-Based or Best Clinical Practices:** Identify evidence-based practices or best clinical practices that will improve the quality of mental health, developmental, or substance abuse services and address the service needs of individuals with co-occurring disorders and develop strategies for the implementation of these practices to the extent practicable.

b. **Mental Health and Substance Abuse Services Performance Expectations and Goals:** Review the results of the previous year's implementation and consider revisions of the performance expectations and goals that address emergency services and case management services and expand this continuous quality improvement approach to other services provided by the Board, including preadmission screening and discharge planning and local, regional, and statewide utilization management, and to state facility operations.

c. **Data Quality and Use:** Through the VACSB Data Management Committee, work collaboratively to (i) monitor and increase the timeliness and quality of data submitted through the current Community Consumer Submission in accordance with the current CCS Extract Specifications and Design Specifications (including the current Business Rules); (ii) address current and future data and information needs, including communicating more effectively about the volume of services provided and how these services affect the lives of individuals; (iii) achieve the values and benefits of interoperability or the ability to reliably exchange information without error, in a secure fashion, with different information technology systems, software applications, and networks in various settings; to exchange this information with its clinical or operational meaning preserved and unaltered; and to do so in the course of the process of service delivery to promote the continuity of that process and (iv) plan for the implementation of electronic Health Information Exchange and Electronic Health Records by July 1, 2014 to improve the quality and accessibility of services and streamline and reduce reporting and documentation requirements.

d. **Quality Improvement Measures:** Work collaboratively to develop and implement small numbers of quality improvement measures for behavioral health services and for developmental services that (1) use existing data to the greatest extent possible, (2) reflect and support the Vision Statement in State Board Policy 1036 and initiatives in *Creating Opportunities: A Plan for Advancing Community-Focused Services in Virginia*, (3) provide regular quarterly feedback directly to individual Boards and state facilities for their use in improving services, and (4) are posted on the Department's web site for public accessibility.

FY 2012 Community Services Performance Contract

11. Signatures: In witness thereof, the Department and the Board have caused this performance contract to be executed by the following duly authorized officials.

Virginia Department of Behavioral Health And Developmental Services

By: _____

Name: James W. Stewart, III
Title: Commissioner

Date: _____

Piedmont Community Services

_____
Board

By: Fred Spencer

Name: Fred Spencer
Title: Board Chairperson

Date: _____

By: James M Tobin

Name: James Tobin
Title: Board Executive Director

Date: 6-9-11

FY2012 Community Services Performance Contract Quarter C

Exhibit A: Resources and Services

Piedmont Community Services

Consolidated Budget (Pages AF-3 through AF-7)				
Revenue Source	**Mental Health Services**	**Developmental Services**	**Substance Abuse Services**	**TOTAL**
State Funds	2,808,670	95,381	984,300	3,888,351
Local Matching Funds	308,109	54,053	34,730	396,892
Total Fees	6,923,824	4,208,641	545,037	11,677,502
Transfer Fees In/(Out)	0	0	0	0
Federal Funds	129,034	0	1,035,816	1,164,850
Other Funds	96,874	0	69,033	165,907
State Retained Earnings	53,342	0	0	53,342
Federal Retained Earnings	0		0	0
Other Retained Earnings	0	0	0	0
Subtotal Funds	10,319,853	4,358,075	2,668,916	17,346,844
State Funds One-Time	0		0	0
Federal Funds One-Time	0		0	0
Subtotal One -Time Funds	0	0	0	0
TOTAL ALL FUNDS	10,319,853	4,358,075	2,668,916	17,346,844

Cost for MH/DV/SA	10,038,749	4,230,262	1,806,738	16,075,749
Cost for Services Available Outside of a Program Area (SAOPA) (AP-4)				1,271,095
Total Cost				17,346,844

Local Match Computation	
Total State Funds	3,888,351
Total Local Matching Funds	396,892
Total State and Local Funds	4,285,243
Total Local Match % (Local/Total State + Local)	9.26%

Administrative Expenses	
Total Admin. Expenses	1,237,450
Total Expenses	17,346,844
Administrative Percent	7.13%

FY2012 Community Services Performance Contract
Exhibit A: Resources and Services
Piedmont Community Services
Financial Comments

Comment1	Local Match Other = Town of Rocky Mount
Comment2	MH Other funds = Healthy Families
Comment3	SA Other funds = Tobacco Settlement
Comment4	Regional Retained Earnings = $53,342 for fy11 children's funds
Comment5	
Comment6	
Comment7	
Comment8	
Comment9	
Comment10	
Comment11	
Comment12	
Comment13	
Comment14	
Comment15	
Comment16	
Comment17	
Comment18	
Comment19	
Comment20	
Comment21	
Comment22	
Comment23	
Comment24	
Comment25	

FY 2012 Performance Contract Financial Summary

Exhibit A: Resources and Services

Mental Health (MH) Services

Piedmont Community Services

Funding Sources	Funds
FEES	
MH Medicaid Fees	5,923,124
MH Fees: Other	1,000,700
Total MH Fees	6,923,824
MH Transfer Fees In/(Out)	0
MH NET FEES	6,923,824
FEDERAL FUNDS	
MH FBG SED Child & Adolescent (93.958)	22,712
MH FBG SMI (93.958)	106,322
MH FBG SMI PACT (93.958)	0
MH FBG SMI SWVMH Board (93.958)	0
Total MH FBG SMI Funds (Adult)	106,322
MH FBG Geriatrics (93.958)	0
MH FBG Consumer Services (93.958)	0
Total MH FBG Adult Funds	106,322
MH Federal PATH (93.150)	0
MH Other Federal - DBHDS	0
MH Other Federal - CSB	0
TOTAL MH FEDERAL FUNDS	129,034
STATE FUNDS	
Regional Funds	
MH Acute Care (Fiscal Agent)	0
MH Regional DAP (Fiscal Agent)	0
MH Crisis Stabilization (Fiscal Agent)	0
MH Recovery (Fiscal Agent)	0
MH Other Regional (Fiscal Agent)	0
MH Total RegionalTransfer In/(Out)	964,888
Total MH Regional Funds	964,888
Children's Funds	
MH Child & Adolescent Services Initiative	116,068
MH Children's Outpatient	75,000
Total Restricted MH Children's Funds	191,068
MH State Children's Services	25,000
MH Juvenile Detention	0
MH Demo Proj-System of Care (Child)	0
Total Unrestricted MH Children's Funds	25,000
Total MH Children's Funds	216,068

FY 2012 Performance Contract Financial Summary

Exhibit A: Resources and Services

Mental Health (MH) Services

Piedmont Community Services

Funding Sources	Funds
Other State Funds	
MH Law Reform	265,194
MH Pharmacy - Medication Supports	606,390
MH Jail Diversion/Service	0
Total Restricted MH Other State Funds	871,584
MH State Funds	643,910
MH State Regional Deaf Services	0
MH State NGRI Funds	0
MH PACT	0
MH Discharge Assistance (DAP)	112,220
MH Geriatric Services	0
Total Unrestricted MH Other State Funds	756,130
Total MH Other State Funds	1,627,714
TOTAL MH STATE FUNDS	2,808,670
OTHER FUNDS	
MH Other Funds	96,874
MH Federal Retained Earnings	0
MH State Retained Earnings	0
MH State Retained Earnings - Regional Prog	53,342
MH Other Retained Earnings	0
TOTAL MH OTHER FUNDS	150,216
LOCAL MATCHING FUNDS	
MH In-Kind	0
MH Contributions	19,700
MH Local Other	17,813
MH Local Government	270,596
TOTAL MH LOCAL FUNDS	308,109
TOTAL MH FUNDS	10,319,853
ONE-TIME FUNDS	
MH FBG SMI (93.958)	0
MH FBG SED Child & Adolescent (93.958)	0
MH State Funds	0
TOTAL MH ONE-TIME FUNDS	0
TOTAL All MH FUNDS	10,319,853

FY 2012 Performance Contract Financial Summary

Exhibit A: Resources and Services

Developmental (DV) Services

Piedmont Community Services

Funding Sources	Funds
FEES	
DV Medicaid Fees	3,865,896
DV Medicaid ICF/MR	0
DV Fees: Other	342,745
Total DV Fees	4,208,641
DV Transfer Fees In/(Out)	0
DV NET FEES	4,208,641
FEDERAL FUNDS	
DV Other Federal - DBHDS	0
DV Other Federal - CSB	0
TOTAL DV FEDERAL FUNDS	0
STATE FUNDS	
DV State Funds	44,381
DV OBRA	51,000
Total DV Unrestricted State Funds	95,381
DV Crisis Stabilization (Restricted)	0
TOTAL DV STATE FUNDS	95,381
OTHER FUNDS	
DV Workshop Sales	0
DV Other Funds	0
DV State Retained Earnings	0
DV Other Retained Earnings	0
TOTAL DV OTHER FUNDS	0
LOCAL MATCHING FUNDS	
DV In-Kind	0
DV Contributions	0
DV Local Other	0
DV Local Government	54,053
TOTAL DV LOCAL FUNDS	54,053
TOTAL DV FUNDS	4,358,075
ONE-TIME FUNDS	———
TOTAL ALL DV FUNDS	4,358,075

FY 2012 Performance Contract Financial Summary

Exhibit A: Resources and Services

Substance Abuse (SA) Services

Piedmont Community Services

Funding Sources	Funds
FEES	
SA Medicaid Fees	36,959
SA Fees: Other	508,078
Total SA Fees	545,037
SA Transfer Fees In/(Out)	0
SA NET FEES	545,037
FEDERAL FUNDS	
SA FBG Alcohol/Drug Trmt (93.959)	465,789
SA FBG SARPOS (93.959)	35,144
SA FBG Jail Services (93.959)	0
SA FBG Co-Occurring (93.959)	42,000
SA FBG New Directions (93.959)	0
SA FBG Recovery (93.959)	200,000
Total SA FBG A/D Trmt Funds	742,933
SA FBG Women (Includes LINK at 6 CSBs) (93.959)	47,914
SA FBG Prevention-Women (LINK) (93.959)	0
Total SA FBG Women Funds	47,914
SA FBG Prevention (93.959)	174,952
SA FBG Prev-Strengthening Families (93.959)	70,017
Total SA FBG Prevention Funds	244,969
SA Fed "Returning to Work" (93.243)	0
SA Other Federal - DBHDS	0
SA Other Federal - CSB	0
TOTAL SA FEDERAL FUNDS	1,035,816
STATE FUNDS	
Regional Funds	
SA Facility Reinvestment (Fiscal Agent)	0
SA Facility Reinvestment Transfer In/(Out)	0
SA Net Facility Reinvestment Funds	0
Other State Funds	
SA Women (Includes LINK at 4 CSBs) - Restricted	1,200
SA State Funds	891,561
SA Region V Residential	0
SA Jail Services/Juv Detention	51,477
SA MAT - Medically Assisted Treatment	0
SA SARPOS	40,062
SA Recovery	0
SA HIV/AIDS	0
Total Unrestricted SA Other State Funds	983,100
Total SA Other Funds	984,300
TOTAL SA STATE FUNDS	984,300

FY 2012 Performance Contract Financial Summary

Exhibit A: Resources and Services

Substance Abuse (SA) Services

Piedmont Community Services

Funding Sources	Funds
OTHER FUNDS	
SA Other Funds	69,033
SA Federal Retained Earnings	0
SA State Retained Earnings	0
SA State Retained Earnings-Regional Prog	0
SA Other Retained Earnings	0
TOTAL SA OTHER FUNDS	69,033
LOCAL MATCHING FUNDS	
SA In-Kind	0
SA Contributions	12,105
SA Local Other	19,066
SA Local Government	3,559
TOTAL SA LOCAL FUNDS	34,730
TOTAL SA FUNDS	2,668,916
ONE TIME FUNDS	
SA FBG Alcohol/Drug Trmt (93.959)	0
SA FBG Women (includes LINK at 6 CSBs) (93.959)	0
SA FBG Prevention (93.959)	0
SA State Funds	0
TOTAL ONE TIME SA FUNDS	0
TOTAL ALL SA FUNDS	2,668,916

FY 2012 Community Services Performance Contract

Exhibit A: Resources and Services

Local Government Tax Appropriations

Piedmont Community Services

City/County	Tax Appropriation
Other	500
Martinsville City	48,177
Patrick County	76,790
Henry County	117,567
Franklin County	85,174
Total Local Government Tax Funds:	328,208

FY 2012 Community Services Performance Contract

Exhibit A: Resources and Services

Supplemental Information

Reconciliation of Projected Revenues and (Core Services) Costs by Program Area

Piedmont Community Services

	MH Services	DV Services	SA Services	SAOPA *	Total
Total All Funds (Page AF-1)	10,319,853	4,358,075	2,668,916		17,346,844
Cost for MH, DV, SA, and SAOPA Services (Page AF-1)	10,038,749	4,230,262	1,806,738	1,271,095	17,346,844
Difference	281,104	127,813	862,178	-1,271,095	0

* Services Available Outside of a Program Area

Difference results from

Other: 0

Explanation of Other in Table Above:

FY 2012 Community Services Performance Contract
Exhibit A: Resources and Services
CSB 100 Mental Health Services
Piedmont Community Services

Report for Form 11

Core Services Code	Costs
250 Acute Psychiatric or SA Inpatient Services	$157,637
310 Outpatient Services	$3,385,093
320 Case Management Services	$2,546,454
410 Day Treatment/Partial Hospitalization	$598,298
420 Ambulatory Crisis Stabilization Services	$278,221
425 Rehabilitation or Habilitation	$1,121,241
430 Sheltered Employment	$6,812
521 Intensive Residential Services	$557,443
551 Supervised Residential Services	$252,023
581 Supportive Residential Services	$1,135,527
Total Costs	**$10,038,749**

FY 2012 Community Services Performance Contract
Exhibit A: Resources and Services
CSB 200 Developmental Services
Piedmont Community Services

Report for Form 21

Core Services Code	Costs
320 Case Management Services	$807,670
425 Rehabilitation or Habilitation	$4,907
430 Sheltered Employment	$157,800
521 Intensive Residential Services	$2,797,665
581 Supportive Residential Services	$462,220
Total Costs	**$4,230,262**

FY 2012 Community Services Performance Contract
Exhibit A: Resources and Services
CSB 300 Substance Abuse Services
Piedmont Community Services

Report for Form 31

Core Services Code	Costs
260 Community-Based SA Medical Detox Inpatient (Hospital) Services	$64,489
310 Outpatient Services	$391,742
320 Case Management Services	$136,389
410 Day Treatment/Partial Hospitalization	$185,540
521 Intensive Residential Services	$223,393
610 Prevention Services	$805,185
Total Costs	**$1,806,738**

FY 2012 Community Services Performance Contract
Exhibit A: Resources and Services
CSB 400 Services Available Outside of a Program Area
Piedmont Community Services

Report for Form 01

Core Services Code	Costs
100 Emergency Services	$922,162
318 Motivational Treatment Services	$45,614
720 Assessment and Evaluation Services	$30,450
730 Consumer Run Services	$272,869
Total Costs	**$1,271,095**

FY 2012 Community Services Performance Contract Supplement

Table 1: Board of Directors Membership Characteristics

Name of CSB:	Piedmont Community Services				
Total Appointments:	14	**Vacancies:**	0	**Filled Appointments:**	14
Number of Consumers:	1			**Number of Family Members:**	3

FY 2012 Community Services Performance Contract Supplement

Piedmont Community Services

Table 2: Board Management Salary Costs

Explanations for Table 2a

Table 2b: Community Service Board Employees

1.	2.	3.	4.	5.	6.	7.
No. of FTE CSB Employees	MH	MR	SA	Srv Outside Pgm	ADMIN	TOTAL
Consumer Service FTEs	95.52	51.10	29.10	10.96		186.68
Peer Staff Service FTEs	2.00	0.00	4.00	1.00		7.00
Support Staff FTEs	18.93	10.65	2.82	0.66	17.50	50.56
TOTAL FTE CSB Employees	116.45	61.75	35.92	12.62	17.50	244.24

FY 2012 Community Services Performance Contract

Exhibit B: Continuous Quality Improvement Process

Introduction: The Department shall continue to work with Boards to achieve a welcoming, recovery-oriented, integrated services system, a transformed system for individuals receiving services and their families in which Boards, state facilities, programs, and services staff, in collaboration with individuals and their families, are becoming more welcoming, recovery-oriented, and co-occurring disorder capable. The process for achieving this goal within limited resources is to build a system wide continuous quality improvement process, in a partnership among Boards, the Department, and other stakeholders, in which there is a consistent shared vision combined with a measurable and achievable implementation process for each Board to make progress toward this vision. This contract provides further clarification for those implementation activities, so that each Board can be successful in designing a performance improvement process at the local level.

Meaningful performance expectations are part of a continuous quality improvement (CQI) process being developed and supported by the Department and the Board that will monitor the Board's progress in achieving those expectations to improve the quality, accessibility, integration and welcoming, person-centeredness, and responsiveness of services locally and to provide a platform for system wide improvement efforts. Generally, performance expectations reflect established requirements based in statute, regulation, or policy. Performance goals are developmental; once baseline measures are established and implemented, they will become expectations. The initial performance expectations and goals focus on the areas of the public mental health, developmental, and substance abuse services system that have the primary interactions with individuals who are at risk of involvement in the civil admissions process established in Chapter 8 of Title 37.2 of the Code of Virginia, are directly involved in that process, are receiving case management services from the Board, or require service linkages between state facility or local inpatient services and other community services. This emphasis is consistent with the Department's and the Board's interest in assuring that individuals receive the services and supports necessary to link them with the most appropriate resources needed to support their recovery, empowerment, and self-determination. It also is consistent with the recognition that many of these individuals will have co-occurring mental health and substance use disorders or intellectual disability and will need services that are designed to welcome and engage them in co-occurring capable services. The capacity to measure progress in achieving performance expectations and goals, provide feedback, and plan and implement CQI strategies shall exist at local, regional, and state levels.

Implementing the CQI process will be a multi-year, iterative, and collaborative effort to assess and enhance Board and system wide performance over time through a partnership among Boards and the Department in which they are working to achieve a shared vision of a transformed services system. In this process, Boards and the Department engage with stakeholders to perform meaningful self-assessments of current operations, determine relevant CQI performance expectations and goals, and establish benchmarks for goals, determined by baseline performance, to convert those goals to expectations. Then, each Board assesses and reports to the Department on its progress toward achieving these expectations and goals and develops and implements a CQI plan to meet them. As benchmarks are attained and expectations and goals are achieved, Boards and the Department review and revise the performance expectations, goals, and benchmarks or establish new ones. Because this CQI process focuses on improving services and to strengthen the engagement of Boards in this process and preserve essential services for individuals, funding will not be based on or associated with Board performance in achieving these expectations and goals. The Department and the Board may negotiate Board performance measures in Exhibit D reflecting actions or requirements to meet expectations and goals in the Board's CQI plan. As this joint CQI process evolves and expands, the Department and the VACSB will utilize data and reports submitted by Boards to conduct a broader scale evaluation of service system performance and to identify opportunities for CQI activities across all program areas.

FY 2012 Community Services Performance Contract

Pursuant to Section 7: Accountability in the Community Services Performance Contract Central Office, State Facility, and Community Services Board Partnership Agreement, the Board provides the following affirmations of its compliance with the listed Performance Expectations and Goals. If the Board cannot provide a particular affirmation, the Board shall attach an explanation to this exhibit with a plan for complying with the identified expectation or goal, including specific actions and target dates. The Department will review this plan and negotiate any changes with the Board, whereupon, the plan will become part of this exhibit.

I. CQI Performance Expectations and Goals for Emergency Services and Mental Health and Substance Abuse Case Management Services

A. General Performance Goal and Expectation Affirmations

1. For individuals currently receiving services, the Board has a protocol in effect 24 hours per day, seven days per week (a) for service providers to alert emergency services staff about individuals deemed to be at risk of needing an emergency intervention, (b) for service providers to provide essential clinical information, which should include advance directives, wellness recovery action plans, or safety and support plans to the extent they are available, that would assist in facilitating the disposition of the emergency intervention, and (c) for emergency services staff to inform the case manager of the disposition of the emergency intervention. Individuals with co-occurring mental health and substance use disorders are welcomed and engaged promptly in an integrated screening and assessment process to determine the best response or disposition for continuing care. The Board shall provide this protocol to the Department upon request. During its inspections, the Department's Licensing Office may examine this protocol to verify this affirmation as it reviews the Board's policies and procedures.
2. For individuals hospitalized through the civil involuntary admission process in a state hospital, a private psychiatric hospital, or a psychiatric unit in a public or private hospital, including those who were under a temporary detention order or an involuntary commitment order or were admitted voluntarily from a commitment hearing, and referred to the Board, the Board that will provide services upon the individual's discharge has in place a protocol to engage those individuals in appropriate Board services and supports upon their return to the community. The Board monitors and strives to increase the rate at which these individuals keep scheduled face-to-face (non-emergency) service visits within seven business days after discharge from the hospital or unit. Since these individuals frequently experience co-occurring mental health and substance use disorders, Board services are planned as co-occurring capable and promote successful engagement of these individuals in continuing integrated care. The Board shall provide this protocol to the Department upon request. During its inspections, the Department's Licensing Office may examine this protocol to verify this affirmation as it reviews the Board's policies and procedures.

B. Emergency Services Performance Expectation Affirmations

1. Every preadmission screening evaluator hired after July 1, 2008 meets the educational qualifications endorsed in October 2007 by the Department and the Virginia Association of Community Services Boards. During its inspections, the Department's Licensing Office may verify this affirmation as it reviews personnel records.
2. Every preadmission screening evaluator employed by the Board has completed the certification program approved by the Department before performing preadmission screenings, and documentation of satisfactory completion is available for review. During its inspections, the Department's Licensing Office may verify this affirmation as it reviews personnel or training records or documentation.

3. Every preadmission screening evaluator is hired with the goal of welcoming individuals with co-occurring disorders and performing hopeful engagement and integrated screening and assessment.

4. Pursuant to subsection B of § 37.2-815 of the Code of Virginia, a preadmission screening evaluator, or through a mutual arrangement an evaluator from another Board, attends each commitment hearing, original (up to 30 days) or recommitment (up to 180 days), for an adult held in the Board's service area or for an adult receiving services from the Board held outside of its service area in person, or, if that is not possible, the preadmission screening evaluator participates in the hearing through two-way electronic video and audio or telephonic communication systems, as authorized by subsection B of § 37.2-804.1 of the Code of Virginia, for the purposes of presenting preadmission screening reports and recommended treatment plans and facilitating least restrictive dispositions.

5. In preparing preadmission screening reports, the preadmission screening evaluator considers all available relevant clinical information, including a review of clinical records, wellness recovery action plans, advance directives, and information or recommendations provided by other current service providers or appropriate significant other persons (e.g., family members or partners). Reports reference the relevant clinical information used by the preadmission screening evaluator. During its inspections, the Department's Licensing Office may verify this affirmation as it reviews services records, including records selected from a sample identified by the Board for individuals who received preadmission screening evaluations.

6. If the emergency services intervention occurs in a hospital or clinic setting, the preadmission screening evaluator informs the charge nurse or requesting medical doctor of the disposition, including leaving a written clinical note describing the assessment and recommended disposition or a copy of the preadmission screening form containing this information, and this action is documented in the individual's service record at the Board with a progress note or with a notation on the preadmission screening form that is included in the individual's service record. During its inspections, the Department's Licensing Office may verify this affirmation as it reviews services records, including records selected from a sample identified by the Board for individuals who received preadmission screening evaluations, for a progress note or a copy of the preadmission screening form.

C. Emergency Services Performance Goal and Expectation Affirmations

1. Telephone access to clinicians employed or contracted by the Board to provide emergency services is available 24 hours per day, seven days per week. Initial telephone responders in emergency services triage calls and, for callers with emergency needs, are able to link the caller with a preadmission screening evaluator within 15 minutes of his or her initial call.

2. When an immediate face-to-face intervention by a certified preadmission screening evaluator is appropriate to determine the possible need for involuntary hospitalization, the intervention is completed by a certified preadmission screening evaluator who is available within one hour of initial contact for urban Boards and within two hours of initial contact for rural Boards. Urban and rural Boards are defined and listed in the current Overview of Community Services in Virginia on the Department's web site at www.dbhds.virginia.gov/OCC-default.htm.

D. Mental Health and Substance Abuse Case Management Services Performance Expectation Affirmations

1. Case managers employed or contracted by the Board meet the knowledge, skills, and abilities qualifications in the Case Management Licensing Regulations, 12 VAC 35-105-

1250. During its inspections, the Department's Licensing Office may verify this affirmation as it reviews personnel records.

2. Individuals receiving case management services are offered a choice of case managers to the extent possible, and this is documented by a procedure to address requests for changing a case manager. The Board shall provide a copy this procedure to the Department upon request. During its inspections, the Department's Licensing Office may verify this affirmation as it reviews services records and by examining the procedure.
3. Case managers are hired with the goal of becoming welcoming, recovery-oriented, and co-occurring competent to engage all individuals receiving services in empathetic, hopeful, integrated relationships to help them address multiple issues successfully.
4. Reviews of the individualized services plan (ISP), including necessary assessment updates, are conducted face-to-face with the individual every 90 days and include significant changes in the individual's status, engagement, participation in recovery planning, and preferences for services; and the ISP is revised accordingly to include an individual-directed wellness plan that addresses crisis self-management strategies and implements advance directives, as desired by the individual. For those individuals who express a choice to discontinue case management services because of their dissatisfaction with care, the provider reviews the ISP to consider reasonable solutions to address the individual's concerns. During its inspections, the Department's Licensing Office may verify this affirmation as it reviews services records, including records from a sample identified by the Board for individuals who discontinued case management services.
5. The Board has policies and procedures in effect to ensure that, during normal business hours, case management services are available to respond in person, electronically, or by telephone to preadmission screening evaluators of individuals with open cases at the Board to provide relevant clinical information in order to help facilitate appropriate dispositions related to the civil involuntary admissions process established in Chapter 8 of Title 37.2 of the Code of Virginia. During its inspections, the Department's Licensing Office may verify this affirmation as it examines the Board's policies and procedures.
6. For an individual who has been discharged from a state hospital, a private psychiatric hospital, or a psychiatric unit in a public or private hospital or released from a commitment hearing and has been referred to the Board and determined by it to be appropriate for its case management services program, a preliminary assessment is initiated at first contact and completed, within 14 but in no case more than 30 calendar days of referral, and an individualized services plan (ISP) is initiated within 24 hours of the individual's admission to a program area for services in its case management services program and updated when required by the Department's licensing regulations. A copy of an advance directive, a wellness recovery action plan, or a similar expression of an individual's treatment preferences, if available, is included in the clinical record. During its inspections, the Department's Licensing Office may verify these affirmations as it reviews services records.
7. For individuals for whom case management services will be discontinued due to failure to keep scheduled appointments, outreach attempts, including home visits, telephone calls, letters, and contacts with others as appropriate, to reengage the individual are documented. The Board has a procedure in place to routinely review the rate of and reasons for refused or discontinued case management services and takes appropriate actions when possible to reduce that rate and address those reasons. The Board shall provide a copy of this procedure to the Department upon request. During its inspections, the Department's Licensing Office may examine this procedure to verify this affirmation.

II. Co-Occurring Mental Health and Substance Use Disorders Performance Expectation Affirmations

A. The Board ensures that, as part of its regular intake processes, every adolescent (ages 12 to 18) and adult presenting for mental health or substance abuse services is screened, based on clear clinical indications noted in the services record or use of a validated brief screening instrument, for co-occurring mental health and substance use disorders. If screening indicates a need, the Board assesses the individual for co-occurring mental health and substance use disorders. During its on-site reviews, staff from the Department's Office of Substance Abuse Services may examine a sample of service records to verify this affirmation.

B. If the Board has not conducted an organizational self-assessment of service integration in the last three years using the COMPASS, COMPASSEZ, or DDCAT/DDMHT tool as part of the Virginia System Integration Project (VASIP) process, the Board conducts an organizational self-assessment during the term of this contract of service integration using one of these tools and uses the results of this self-assessment as part of its continuous quality improvement plan and process. The Board shall provide the results of its continuous quality improvement activities for service integration to the Department's Office of Substance Abuse Services during its on-site review of the Board.

C. In the Board's information system, individuals are identified as having co-occurring mental health and substance use disorders if there is (1) an Axis I or Axis II mental health diagnosis and (a) an Axis I substance use disorder diagnosis or (b) admission to the substance abuse program area (denoted in a type of care record) or (2) an Axis I substance use disorder diagnosis and (a) an Axis I or Axis II mental health diagnosis or (b) admission to the mental health program area (denoted in a type of care record). The Department will monitor this affirmation by analyzing the Board's CCS 3 submissions and reviewing any continuous quality improvement plan submitted by the Board.

III. Data Quality Performance Expectation Affirmations

A. The Board submits 100 percent of its monthly Community Consumer Submission (CCS) consumer, type of care, and services file extracts to the Department in accordance with the schedule in Exhibit E of this contract, the CCS 3 Extract Specifications - Version 7, and the current CCS 3 Business Rules, a submission for each month by the end of the following month for which the extracts are due. The Department will monitor this measure quarterly by analyzing the Board's CCS submissions and may negotiate an Exhibit D with the Board if it fails to meet this goal for more than two months in a quarter.

B. The Board monitors the total number of consumer records rejected due to fatal errors divided by the total consumer records in the Board's monthly CCS consumer extract file. If the Board experiences a fatal error rate of more than five percent of its CCS consumer records in more than one monthly submission, the Board develops and implements a data quality improvement plan to achieve the goal of no more than five percent of its CCS consumer records containing fatal errors within a timeframe negotiated with the Department. The Department will monitor this affirmation by analyzing the Board's CCS submissions.

C. The Board ensures that all required CCS data is collected and entered into its information system when a case is opened or an individual is admitted to a program area, updated at least annually when an individual remains in service that long, and updated when an individual is discharged from a program area or his case is closed. The Board identifies situations where data is missing or incomplete and implements a data quality improvement plan to increase the completeness, accuracy, and quality of CCS data that it collects and

reports. The Board monitors the total number of individuals without service records submitted showing receipt of any substance abuse service within the prior 90 days divided by the total number of individuals with a TypeOfCare record showing a substance abuse discharge in those 90 days. If more than 10 percent of the individuals it serves have not received any substance abuse service within the prior 90 days and have not been discharged from the substance abuse program area, the Board develops and implements a data quality improvement plan to reduce that percentage to no more than 10 percent. The Department will monitor this affirmation by analyzing the Board's CCS submissions.

IV. Employment and Housing Opportunities Expectation Affirmations

A. The Board reviews and revises, if necessary, its joint written agreement, required by subdivision A.12 of § 37.2-504 or subsection 14 of § 37.2-605 of the Code of Virginia, with the Department of Rehabilitative Services (DRS) regional office to ensure the availability of employment services and specify DRS services to be provided to individuals receiving services from the Board. The Board works with employment service organizations (ESOs) where they exist to support the availability of employment services and identify ESO services available to individuals receiving services from the Board.

B. The Board ensures that its staff asks individuals currently receiving services from the Board if they want to work and when appropriate and as practicable engages them in seeking employment services in a timely manner.

C. The Board reviews and revises, if necessary, its joint written agreements, required by subdivision 12 of subsection A of § 37.2-504 or subsection 14 of § 37.2-605 of the Code of Virginia, with public housing agencies, where they exist, and works with planning district commissions, local governments, private developers, and other stakeholders to maximize federal, state, and local resources for the development of and access to affordable housing and appropriate supports for individuals receiving services from the Board.

D. The Board works with the Department through the VACSB Data Management Committee, at the direction of the VACSB Executive Directors Forum, to collaboratively establish clear employment and stable housing policy and outcome goals and develop and monitor key housing and employment indicators.

V. Continuous Quality Improvement Process Measures

The Board agrees to monitor and collect data and report on the following measures, using the attached Exhibit B Required Measures Report, and to use data from the Department or other sources to monitor its accomplishment of the performance expectations and goals in this exhibit.

Expectation or Goal	Measure
I.A.2.	The Board agrees to monitor and report quarterly to the Department on the percentage of individuals referred to the Board who keep a face-to-face (non-emergency) service visit within seven business days after having been discharged from a state hospital, a private psychiatric hospital, or a psychiatric unit in a public or private hospital following involvement in the civil involuntary admission process. This includes all individuals referred to the Board upon discharge from a state hospital, a private psychiatric hospital, or a psychiatric unit in a public or private hospital who were under a temporary detention order or an involuntary commitment order or who were admitted voluntarily from a commitment hearing. The Department agrees to monitor part of this measure through comparing AVATAR data on individuals discharged from state hospitals to the Board with

CCS data about their admission to the mental health program area and dates of service after discharge from the hospital or unit.

I.C.2. The Board agrees to collect in its two week sample of its emergency services each quarter, the time within which the preadmission screening evaluator is available when an immediate face-to-face intervention by a certified preadmission screening evaluator is appropriate to determine the need for involuntary hospitalization and to monitor achievement of the goal that the evaluator be available within one hour of initial contact for an urban board or within two hours for a rural board. The Board agrees to maintain documentation of these samples, including information about circumstances in which this goal is not met, locally for three years and to report a summary and analysis of the information quarterly to the Department.

VI. Continuous Quality Improvement Data Feedback

A. For purposes of improving data quality and integrity, the Department shall provide regular reports to the Board on the completeness and validity of the individual and service data that it submits through CCS 3. When requested by the Department, the executive director of the Board shall develop and submit a plan of correction to the Department to remedy persistent deficiencies in the Board's CCS 3 submissions (e.g., a persistent fatal error rate of more than 10 percent of its CCS consumer records) and, upon approval of the Department, shall implement the plan of correction. Persistent deficiencies that are not resolved through this process shall be addressed with a Board Performance Measure in Exhibit D.

B. For purposes of furthering transparent accountability, the Department shall develop summary and comparative reports using CCS 3 and other data submitted by Boards and place these reports on its web site. Reports shall include information about numbers of individuals served, their characteristics, services availability, services provided, state hospital utilization rates, continuity of care between inpatient facilities and community services, emergency services responsiveness, community tenure, retention of individuals in services, Medicaid utilization, and penetration rates and the timeliness and completeness of CCS submissions. Before developing reports, the Department shall consult with the Executive Directors Forum and the Data Management Committee of the Virginia Association of Community Services Boards about the types and formats of these reports and shall work through the Performance Expectations Steering Committee to develop formats and explanations for agreed-upon reports.

Signature: In witness thereof, the Board provides the affirmations in this Exhibit and agrees to monitor and collect data and report on the measures in section V of this Exhibit and to use data from the Department or other sources to monitor the accomplishment of the performance expectations and goals in this Exhibit, as denoted by the signature of the Board's Executive Director.

Piedmont Community Services
Board

By: [signature]

Name: James Tobin
Title: Executive Director

Date: 6-9-11

Exhibit B Required Measures Report			
Date of Report:		**Quarter:** ☐ First ☐ Second ☐ Third ☐ Fourth Quarter	
CSB Name:		**Contact Name:**	
Contact Telephone Number:		**E-Mail Address:**	
Exh. B	**Expectation or Goal Measure**	**Data**	**Data Reported**
I.A.2	Percentage of individuals referred to the Board who keep a face-to-face (non-emergency) service visit within seven business days after having been discharged from a state hospital, a private psychiatric hospital, or a psychiatric unit in a public or private hospital following involvement in the civil involuntary admission process. This includes all individuals referred to the Board upon discharge from a state hospital, a private psychiatric hospital, or a psychiatric unit in a public or private hospital who were under a temporary detention order or an involuntary commitment order or who were admitted voluntarily from a commitment hearing.		Number of individuals who kept scheduled face-to-face (non-emergency) service visits within seven business days of discharge from the hospital or unit in this quarter.
			Number of individuals who were discharged to the Board from the hospital or unit in this quarter.
		%	Enter 1st number ÷ by 2nd number x 100.
I.C.2	When an immediate face-to-face intervention by a certified preadmission screening evaluator is appropriate to determine the need for involuntary hospitalization, the intervention shall be completed by a certified preadmission screening evaluator who shall be available within one hour of initial contact for urban Boards and within two hours of initial contact for rural Boards.		Number of individuals who required a face-to-face evaluation for possible involuntary hospitalization who saw a certified preadmission screening evaluator face-to-face within one or two hours of initial contact during the two-week sample of emergency services each quarter.
			The total number of individuals who saw a certified preadmission screening evaluator for evaluation of possible involuntary hospitalization during quarterly two week sample of emergency services.
		%	Enter 1st number ÷ by 2nd number x 100.

FY 2012 Community Services Performance Contract

Exhibit C: Statewide Individual Outcome and Board Performance Measures

Measure	**Access for Pregnant Women**
Program Area	Substance Abuse Services Only
Source of Requirement	SAPT Block Grant
Type of Measure	Aggregate
Data Needed For Measure	Number of Pregnant Women Requesting Service
	Number of Pregnant Women Receiving Services Within 48 Hours
Reporting Frequency	Annually
Reporting Mechanism	Performance Contract Reports

Other Board Provider Performance and Individual Outcome Measures will be collected through the current CCS, which CSBs submit to provide TEDS data and to satisfy federal Mental Health and SAPT Block Grant requirements. These measures include changes in employment status and type of residence, number of arrests, and type and frequency of alcohol or other drug use.

The Board also agrees to participate in the conduct of the following surveys:

1. Annual Survey of Individuals Receiving MH and SA Outpatient Services,
2. Annual Youth Services Survey for Families (i.e., Child MH survey), and
3. ID Family Survey (done at the time of the individual's annual planning meeting).

As part of its continuous quality improvement process and in accordance with Section 5, Advancing the Vision, of the Partnership Agreement and recommendations in the *Services System Transformation Initiative Data/Outcomes Measures Workgroup Report* (September 1, 2006), the Board shall administer the Recovery Oriented Systems Indicators (ROSI) Consumer Survey (42 items) with a statistically valid sample of five percent or a minimum of 70, whichever is larger, of individuals with serious mental illness receiving mental health services from the Board and the ROSI Provider Survey (23 item Administrative Profile) annually. The Board shall administer both ROSI surveys and report the results to the Department by March 31, 2012. The Board may submit the results of both ROSI surveys through the Department's Internet web portal. In administering the ROSI, the Board shall involve individuals receiving services, for instance by training and hiring individuals receiving services to administer the ROSI and to compile and analyze the results.

The Board and the Department agree to use the Web Site CSB and State Facility Accountability Measures, available on the Department's web site at www.dbhds.virginia.gov/WAM.htm, to monitor outcome and performance measures for CSBs and state facilities.

Signatures: In witness thereof, the Department and the Board have caused this performance contract amendment to be executed by the following duly authorized officials.

Virginia Department of Behavioral Health and Developmental Services

_____

_____
Board

By: _____

Name: James W. Stewart, III
Title: Commissioner

Date: _____

By: _____

Name: _____
Title: Chairperson of the Board

Date: _____

By: _____

Name: _____
Title: Board Executive Director

Date: _____

FY 2012 Community Services Performance Contract

Exhibit E: Performance Contract Process and Contract Revision Instructions

05-06-11: The Department distributes the FY 2012 Performance Contract to Boards electronically. The Department distributes the FY 2012 Letters of Notification to Boards with enclosures that show tentative allocations of state and federal block grant funds. Another enclosure may list performance measures that have been negotiated with a Board to be included in Exhibit D of the contract. The Office of Information Technology Services (OITS) completes distribution of the FY 2012 Community Services Performance Contract package software in the Community Automated Reporting System (CARS) to CSBs.

06-17-11: Exhibit A and other parts of the FY 2012 Community Services Performance Contract, submitted electronically in CARS, are due in the OITS in time to be received by this date. Tables 1 and 2 of the Performance Contract Supplement (also in CARS) must be submitted with the contract. While a paper copy of the complete contract is not submitted, paper copies of the following completed pages with signatures where required are due in the Office of Community Contracting (OCC) by this date: the signature page of the contract body; the Board's current organization chart (page 3 of Exhibit H); the signature page in Exhibit B; Exhibit D, if applicable; Exhibit F (two pages); page 1 of Exhibit G; Exhibit J (if applicable); and the signature page of the Partnership Agreement. Page 2 of Exhibit G must be submitted as soon as possible and no later than **September 30.**

Contracts must conform to Letter of Notification allocations of state and federal funds, or amounts subsequently revised by or negotiated with the OCC and confirmed in writing, and must contain actual appropriated amounts of local matching funds. If the Board cannot include the minimum 10 percent local matching funds in the contract, it must submit a written request for a waiver of the matching funds requirement, pursuant to § 37.2-509 of the Code of Virginia and State Board Policy 4010, to the OCC with its contract. This requirement also applies to mid-year and end of the fiscal year performance contract reports, submitted after the ends of the 2nd and 4th quarters, and contract revisions, if either report or the contract revision reflects less than the minimum 10 percent local matching funds.

06-30-11: CSB Financial Analysts in the Department's Office of Fiscal and Grants Management prepare Electronic Data Interchange (EDI) transfers for the *first two semi-monthly payments* (both July payments) of state and federal funds for all Boards and send the requests to the Department of Accounts.

07-15-11: CSB Financial Analysts receive authorizations to prepare EDI transfers for *payments 3 through 6* (both August and September) of state and federal funds for Boards whose contracts were received and determined to be complete by this date and, after the OCC Administrator authorizes their release, prepare and send the transfers to the Department of Accounts. Payments will not be released without complete contracts, as defined in item 1 of Exhibit I. For a Board whose contract is received after this date, EDI transfers for these four semi-monthly payments will be processed within two weeks of receipt of the contract, if the contract is complete.

07-22-11: Department staff complete reviews by this date of FY 2012 contracts received by the due date that are complete and acceptable. Contracts received after that date will be processed in the order in which they are received.

1. The **Office of Fiscal and Grants Management** (OFGM) analyzes the revenue information in the contract for conformity to Letter of Notification allocations and makes corrections and changes on the financial forms in Exhibit A of the contract.

2. The **Offices of Mental Health, Child and Family, Developmental,** and **Substance Abuse Services** review and approve new service proposals and consider program issues related to existing services based on Exhibit A.
3. The **Office of Community Contracting** (OCC) assesses contract completeness, examines maintenance of local matching funds, integrates new service information, makes corrections and changes on the service forms in Exhibit A, negotiates changes in Exhibit A, and finalizes the contract for signature by the Commissioner. The OCC Administrator notifies the Board when its contract is not complete or has not been approved and advises the Board to revise and resubmit its contract.
4. The **Office of Information Technology Services** (OITS) receives CARS and Community Consumer Submission (CCS) submissions from the Boards, maintains the community database, and processes signed contracts into that database as they are received from the OCC.

07-29-11: Boards submit their final FY 2010 CCS consumer, type of care, and service extract files for June to the OITS in time to be received by the end of July.

08-05-11: The OITS distributes the FY 2011 end of the fiscal year performance contract report software (CARS).

08-26-11: Boards submit their complete CCS reports for total (annual) FY 2011 CCS service unit data to the OITS in time to be received by this date. This later date for final FY 2011 CCS service unit data allows for the inclusion of all units of services delivered in FY 2011, which might not be in local information systems in July.

08-31-11: Boards submit their CCS FY 2012 monthly consumer, type of care, and service extract files for July to the OITS in time to be received by the end of August.

09-16-11: CSB Financial Analysts receive authorization to prepare EDI transfers for *payments 7 and 8* (October) and, after the OCC Administrator authorizes their release, prepare and send the transfers to the Department of Accounts for payment 7 for Boards with signed contracts and that submitted their final FY 2011 CCS consumer, type of care, and service extract files by August 26. Payments 7 and 8 will not be released without a contract signed by the Commissioner and receipt of those CCS extract files.

After the Commissioner signs it, the OCC sends a copy of the approved contract Exhibit A to the Board, with the signature page containing only the Commissioner's signature. The Board must review this contract, which reflects all of the changes negotiated by Department staff; complete the signature page, which documents its acceptance of these changes; and return the completed signature page to the OCC Administrator.

09-16-11: Boards send complete FY 2011 end of the fiscal year performance contract reports that include Uniform Cost Report information electronically in CARS to the OITS in time to be received by this date.

OITS staff places the reports in a temporary data base for OCC and OFGM staff to access them and print paper copies of the reports. The OCC Administrator reviews services sections of reports for correctness, completeness, consistency, and acceptability; resolves discrepancies with Boards; communicates necessary changes to Boards; and makes the changes on the paper copies of the reports. CSB Financial Analysts review the financial portions of reports for arithmetic accuracy, completeness, consistency, and conformity with state funding actions; resolve discrepancies with Boards; communicate necessary changes to Boards; and make the changes on the paper copies of reports.

Once OCC and OFGM staffs complete their reviews and corrections of a Board's reports, the OCC administrator notifies the Board to submit new reports, reflecting only those approved changes, to OITS. Upon receipt, the process described above is

repeated to ensure the new reports contain only those changes identified by OFGM and OCC staff. If the reviews document this, OCC and OFGM staffs approve the reports, and OITS staff processes final report data into the Department's community database.

Late report submission, if an extension of the due date has not been obtained through the process in Exhibit I of this contract, or submitting a report without correcting errors identified by the CARS error checking program may result in a letter from the Commissioner to the Board Chairman and local government officials. See Exhibit I for additional information.

09-30-11: Boards submit their CCS FY 2012 monthly consumer, type of care, and service extract files for August to the OITS in time to be received by the end of September.

10-03-11: Boards that are not local government departments or included in local government audits send one copy of the audit report for the preceding fiscal year on all board operated programs to the Department's Office of Budget and Financial Reporting by this date. A management letter and plan of correction for deficiencies must be sent with this report. Boards submit a copy of C.P.A. audit reports for all contract programs for their last full fiscal year, ending on June 30, to the Office of Budget and Financial Reporting by this date. For programs with different fiscal years, reports are due three months after the end of the year. Management letters and plans of correction for deficiencies must be included with these reports.

10-03-11: Audit reports for Boards that are local government departments or are included in local government audits are submitted to the Auditor of Public Accounts by the local government. Under a separate cover, the Board must forward a plan of correction for any audit deficiencies that are related to or affect the Board to the Office of Budget and Financial Reporting by this date. Also, in order to satisfy federal block grant sub-recipient monitoring requirements imposed on the Department under the Single Audit Act, a Board that is a local government department or is included in its local government audit shall contract with the same CPA audit firm that audits its locality to perform testing related to the federal Mental Health Services and Substance Abuse Prevention and Treatment Block Grants. Alternatively, the local government's internal audit department can work with the Board and the Department to provide the necessary sub-recipient monitoring information.

If the Board receives an audit identifying material deficiencies or containing a disclaimer or prepares the plan of correction referenced in the preceding paragraph, the Board and the Department shall negotiate an Exhibit D that addresses the deficiencies or disclaimer and includes a proposed plan with specific timeframes to address them, and this Exhibit D and the proposed plan shall become part of this contract.

10-03-11: If necessary, Boards submit new FY 2011 end of the fiscal year performance contract reports not later than this date that correct errors or inaccuracies. The Department will not accept CARS report revisions after this date.

10-13-11: CSB Financial Analysts receive authorization to prepare EDI transfers for *payments 9 and 10* (November), and, after the OCC Administrator authorizes their release, prepare and send these transfers to the Department of Accounts for Boards whose complete FY 2011 end of the fiscal year performance contract reports were received by the due date. Payments will not be released without (1) complete reports, as defined in item 2.a. of Exhibit I of this contract, (2) complete CCS submissions for FY 2011 and for the first two months of FY 2012, and (3) the completed signature page received from the Board.

10-31-11: Boards submit CCS FY 2012 monthly consumer, type of care, and service extract files for September to the OITS in time to be received by the end of October.

11-10-11: CSB Financial Analysts receive authorization to prepare EDI transfers for *payments 11 and 12* (December), and, after the OCC Administrator authorizes their release, prepare and send these transfers to the Department of Accounts. Payments will not be released without receipt of September CCS submissions.

11-30-11: Boards submit their CCS FY 2012 monthly consumer, type of care, and service extract files for October to the OITS in time to be received by the end of November.

12-15-11: CSB Financial Analysts receive authorization to prepare EDI transfers for *payment 13* (first January), and, after the OCC Administrator authorizes their release, prepare and send these transfers to the Department of Accounts for Boards whose FY 2011 end of the fiscal year performance contract reports have been verified as accurate and internally consistent, per items 2.b. through d. of Exhibit I, and whose CCS monthly extracts for October have been received. Payments will not be released without verified reports and CCS submissions for October.

12-30-11: Boards submit their CCS FY 2012 monthly consumer, type of care, and service extract files for November to the OITS in time to be received by the end of December.

01-02-12: The Department distributes the exposure draft of the FY 2013 performance contract for a 60-day public comment period pursuant to § 37.2-508 of the Code of Virginia.

CSB Financial Analysts receive authorization to prepare EDI transfers for *payments 14 through 16* (second January, February), and, after the OCC Administrator authorizes their release, prepare and send these transfers to the Department of Accounts for Boards whose monthly CCS consumer, type of care, and service extract files for November were received by the end of December. Payments will not be released without receipt of these monthly CCS submissions.

01-13-12: The OITS distributes FY 2012 mid-year performance contract report software.

01-31-12: Boards submit their CCS FY 2012 monthly consumer, type of care, and service extract files for December to the OITS in time to be received by the end of January.

02-16-12: Boards send complete mid-year performance contract reports and a revised Table 1 in Exhibit H to the OITS electronically in CARS within 45 calendar days after the end of the second quarter, in time to be received by this date. OITS staff places the reports on a shared drive for OCC and OFGM staff to access them. The offices review and act on the reports using the process described for the end of the fiscal year reports. When reports are acceptable, OITS staff processes the data into the Department's community data base.

CSB Financial Analysts receive authorization to prepare EDI transfers for *payment 17* (first March), and, after the OCC Administrator authorizes their release, prepare and send these transfers to the Department of Accounts for Boards whose monthly CCS consumer, type of care, and service extract files for December were received by the end of January. Payments will not be released without these monthly CCS submissions.

02-24-12: CSB Financial Analysts receive authorization to prepare EDI transfers for *payments 18 and 19* (2nd March, 1st April) and, after the OCC Administrator authorizes their release, prepare and send these transfers to the Department of Accounts for Boards whose complete FY 2012 mid-year performance contract reports were received by the due date. Payments will not be released without complete reports, as defined in item 2.a. of Exhibit I. Boards submit their CCS FY 2012 monthly consumer, type of care, and service extract files for January to the OITS in time to be received by the end of February.

03-30-12: Boards submit their CCS FY 2012 monthly consumer, type of care, and service extract files for February to the OITS in time to be received by the end of March.

FY 2012 Community Services Performance Contract

04-02-12: CSB Financial Analysts receive authorization to prepare EDI transfers for *payments 20 through 22* (2nd April, May) and, after the OCC Administrator authorizes their release, prepare and send these transfers to the Department of Accounts for Boards whose FY 2011 mid-year performance contract reports have been **verified** as accurate and internally consistent, per items 2.b. through d. of Exhibit I, and whose monthly CCS consumer, type of care, and service extract files for January and February were received by the end of the month following the month of the extract. Payments will not be released without verified reports and without these monthly CCS submissions.

04-16-12: The Department distributes final revised FY 2012 Letters of Notification to Boards with enclosures reflecting any changes in allocations of state and federal block grant funds since the original Letters of Notification for Boards to use in preparing their final FY 2012 contract revisions.

04-30-12: Boards submit their CCS FY 2012 monthly consumer, type of care, and service extract files for March to the OITS in time to be received by the end of April.

05-04-12: The Department distributes the FY 2013 Community Services Performance Contract and Letters of Notification to Boards with enclosures showing tentative allocations of state and federal funds, and the OITS completes distribution of the FY 2013 Community Services Performance Contract package software (CARS) to CSBs.

05-04-12: The final revised FY 2012 Performance Contract Exhibit A, prepared in accordance with instructions in this Exhibit, is due in the OITS by this date. Final contract revisions must conform to final revised Letter of Notification allocations, or amounts subsequently revised by or negotiated with the Department and confirmed in writing, and must contain actual amounts of local matching funds. Revised contracts are reviewed and acted on using the process for the original contract. If the Board cannot include the minimum 10 percent local matching funds in its revised contract, it must submit a written request for a waiver of the matching funds requirement, pursuant to § 37.2-509 of the Code of Virginia and State Board Policy 4010, to the OCC with its revised contract.

05-14-12: CSB Financial Analysts receive authorization to prepare EDI transfers for *payment 23* (first June), and, after the OCC Administrator authorizes their release, prepare and send these transfers to the Department of Accounts for Boards whose monthly CCS consumer, type of care, and service extract files for March were received by the end of April. Payments will not be released without these monthly CCS submissions.

05-28-12: Boards submit their CCS FY 2012 monthly consumer, type of care, and service extract files for April to the OITS in time to be received by the end of May.

06-01-12: CSB Financial Analysts receive authorization to prepare EDI transfers for *payment 24* and, after the OCC Administrator authorizes their release, prepare and send these transfers to the Department of Accounts, after the Department has made any final adjustments in the Board's state and federal funds allocations, for Boards whose monthly CCS consumer, type of care, and service extract files for April were received by the end of May. Payments will not be released without these monthly CCS submissions.

06-18-12: The FY 2013 Community Services Performance Contract, submitted electronically in CARS, is due in the OITS and the paper copies of the applicable parts of the contract are due in the OCC by this date.

06-29-12: Boards submit their CCS FY 2012 monthly consumer, type of care, and service extract files for May to the OITS by the end of June.

07-31-12: Boards submit their final CCS FY 2012 consumer, type of care, and service extract files for June to the OITS in time to be received by the end of July.

08-10-12: The OITS distributes FY 2012 end of the fiscal year performance contract report software (CARS) to Boards.

FY 2012 Community Services Performance Contract

08-24-12: Boards submit their complete Community Consumer Submission (CCS) reports for total (annual) FY 2012 service units to the OITS in time to be received by this date. This later date for final FY 2012 CCS service unit data, allows for the inclusion of all units of services delivered in FY 2012, which might not be in local information systems in July.

09-14-12: Boards send complete FY 2012 end of the fiscal year performance contract reports electronically in CARS to the OITS in time to be received by this date.

Performance Contract Process and Contract Revision Instructions

The Board may revise Exhibit A of its signed performance contract only in the following circumstances:

1. a new, previously unavailable category or subcategory of core services is implemented;

2. an existing category or subcategory of core services is totally eliminated;

3. a new program offering an existing category or subcategory of core services is implemented;

4. a program offering an existing category or subcategory of core services is eliminated;

5. new earmarked state general or federal funds are received to expand an existing service or establish a new one;

6. state general or federal block grant funds are moved between program (MH, DV, SA, or SAOPA) areas (an exceptional situation);

7. allocations of state general, federal, or local funds change; or

8. a major error is discovered in the original contract.

A final revision must be submitted before the end of the term of this contract, as specified in this Exhibit, so that any discrepancies in state general or federal fund disbursements can be resolved, any of the preceding circumstances can be addressed, and any other changes can be reflected in the final revision.

Revisions of Exhibit A must be submitted using the CARS software and the same procedures used for the original performance contract.

FY 2012 Community Services Performance Contract

Exhibit F: Federal Compliances

Certification Regarding Salary: Federal Mental Health and Substance Abuse Prevention and Treatment Block Grants

Check One

X 1. The Board has no employees being paid totally with Federal Mental Health Block Grant funds or Federal Substance Abuse Prevention and Treatment (SAPT) Block Grant funds at a direct annual salary (not including fringe benefits and operating costs) in excess of Level 1 of the federal Executive Schedule.

_____ 2. The following employees are being paid totally with Federal Mental Health or SAPT Block Grant funds at a direct annual salary (not including fringe benefits and operating costs) in excess of Level 1 of the federal Executive Schedule.

	Name	***Title***
1.		
2.		
3.		
4.		
5.		
6.		

Assurances Regarding Equal Treatment for Faith-Based Organizations

The Board assures that it is and will continue to be in full compliance with the applicable provisions of 45 CFR Part 54, Charitable Choice Regulations, and 45 CFR Part 87, Equal Treatment for Faith-Based Organizations Regulations, in its receipt and use of federal Mental Health Services and Substance Abuse Prevention and Treatment Block Grants and federal funds for Projects for Assistance in Transitions from Homelessness programs. Both sets of regulations prohibit discrimination against religious organizations, provide for the ability of religious organizations to maintain their religious character, and prohibit religious organizations from using federal funds to finance inherently religious activities.

FY 2012 Community Services Performance Contract

Exhibit F: Federal Compliances

Assurances Regarding Restrictions on the Use of Federal Block Grant Funds

The Board assures that it is and will continue to be in full compliance with the applicable provisions of the federal Mental Health Services Block Grant (CFDA 93.958) and the federal Substance Abuse Prevention and Treatment Block Grant (CFDA 93.959), including those contained in the Community Services Board Administrative Requirements and the following requirements. Under no circumstances shall Federal Mental Health Services and Substance Abuse Prevention and Treatment Block Grant funds be used to:

1. provide mental health or substance abuse inpatient services[1];
2. make cash payments to intended or actual recipients of services;
3. purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;
4. satisfy any requirement for the expenditure of non-federal finds as a condition for the receipt of federal funds;
5. provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs;
6. provide financial assistance to any entity other than a public or nonprofit private entity; or
7. provide treatment services in penal or correctional institutions of the state.

[Source: 45 CFR § 96.135]

Signature of Board Executive Director

6-10-11
Date

[1] However, the Board may expend SAPT Block Grant funds for inpatient hospital substance abuse services only when all of the following conditions are met:

a. the individual cannot be effectively treated in a community-based, non-hospital residential program;
b. the daily rate of payment provided to the hospital for providing services does not exceed the comparable daily rate provided by a community-based, non-hospital residential program;
c. a physician determines that the following conditions have been met: (1) the physician certifies that the person's primary diagnosis is substance abuse, (2) the person cannot be treated safely in a community-based, non-hospital residential program, (3) the service can reasonably be expected to improve the person's condition or level of functioning, and (4) the hospital-based substance abuse program follows national standards of substance abuse professional practice; and
d. the service is provided only to the extent that it is medically necessary (e.g., only for those days that the person cannot be safely treated in a community-based residential program).

[Source: 45 CFR § 96.135]

FY 2012 Community Services Performance Contract

Exhibit G: Local Government Approval of the Community Services Performance Contract – Page 1

1. Name of the Board: Piedmont Community Services

2. City or County designated as the Board's Fiscal Agent: City of Martinsville

3. Name of the Fiscal Agent's City Manager or County Administrator or Executive:

   Name: Clarence Monday Title: City Manager

4. Name of the Fiscal Agent's County or City Treasurer or Director of Finance:

   Name: Cindy Dickerson Title: City Treasurer

5. Name, title, and address of the Fiscal Agent official or the name and address of the Board if it acts as its own fiscal agent to whom checks should be electronically transmitted:

   Name: Clarence Monday Title: City Manager

   Address: City of Martinsville
   PO Box 1112
   Martinsville VA 24114

   This information should agree with information at the top of the payment document emailed to the Board. Examples: Mr. Joe Doe, Treasurer, P.O. Box 200, Winchester, VA 22501 or Valley CSB, 85 Sanger Lane, Staunton, VA 24401.

Note: Subsection A.18 of § 37.2-504 of the Code of Virginia authorizes an operating community services board to receive state and federal funds directly from the Department and act as its own fiscal agent when authorized to do so by the governing body of each city or county that established it.

FY 2012 Community Services Performance Contract

Exhibit G: Local Government Approval of the Community Services Performance Contract – Page 2

Name of City or County [1]	Date Contract Submitted to Local Government [2]	Date and Type of Approval [3]

1. Enter the name of each city or county that established the Board in the left column.

2. Enter the date on which the Board submitted its contract to each local government.

3. Enter the date on which that city or county approved the Board's performance contract by formal vote and the type of action taken (e.g., passage of an ordinance or resolution or a motion and voice vote).

The first page of Exhibit G must be submitted with the performance contract. The second page must be submitted to the Office of Community Contracting in the Department as soon as possible and no later than the last business day in September. By that date, if a local government has not acted upon the Board's contract, enter No Action Taken in this column.

PIEDMONT COMMUNITY SERVICES
BOARD OF DIRECTORS
July 2011

Mr. Fred Spencer **(Board Chair)**
423 Fox Chase Drive
Collinsville, VA 24078
647.1801 (H)
806-1298 (C)
[Henry County]
{Appointed 7/2007, 7/2010}
{Term expires 6/2013}

Ms. Diane Lovell **(1st Vice Chair)**
115 Belmont Drive
Rocky Mount, VA 24151
540.483.1232 (H)
540.483.5975 (O)
540.493.3170 (C)
540.483.2221 (F)
[Franklin County]
{Appointed 6/2005, 7/2006, 6/2009}
{Term expires 6/2012}

Ms. Kay Potter **(2nd Vice Chair)**
93 Tobacco Road
Glade Hill, VA 24092
540.576.2014 (H)
540.493.9900 (C)
[Franklin County]
{Appointed 7/2006, 7/2008, 7/2011}
{Term expires 6/2014}

Ms. Jane Carlson
POB 385
Stuart, VA 24171
694-8138 (H)
[Patrick County]
{Appointed 4/2011}
{Term expires 6/2014}

Ms. Astrid Cole
2295 Big A School Road
Stuart, VA 24171
694.4257 (H)
694.4466 (O)
276.952.5079 (C)
[Patrick County]
{Appointed 7/06, 6/09}
{Term expires 6/30/2012}

Mr. Steve Eanes
130 Winthrop Road
Ridgeway, VA 24148
956.1526 (H)
656.4210 (O)
226.0801 (C)
[Henry County]
{Appointed 7/2008, 7/2011}
{Term expires 6/2014}

Ms. Charlotte Hubbard
1849 Bethlehem Road
Boones Mill, VA 24065
540.334.5388 (H)
540.985.4010 (O)
540-400-2810 (C)
[Franklin County]
{Appointed 7/2009}
{Term expires 6/2012}

Mr. Tony Millner
109 Jones Street
Martinsville, VA 24112
632.1545 (H)
632.3799 (O)
276.340.3799 (C)
[Henry County]
{Appointed 7/2009}
{Term expires 6/2012}

Ms. Carol Nelson
261 Frank Wilson Avenue
Fieldale, VA 24089
673.1691 (H)
[Henry County]
{Appointed 7/2009}
{Term expires 6/2012}

Ms. Debbie Poirier
1810 Spruce Street, #105
Martinsville, VA 24112
634.5250 (H)
276.252.2924 (C)
[Martinsville]
{Appointed 6/2005, 7/2008, 7/2011}
{Term expires 6/20114}

Bishop James C. Richardson, Jr.
115 Melody Court
Martinsville, VA 24112
276.632.8340 (H)
276.632.4819 (Ch)
(Martinsville)
{Appointed 7/2010}
{Term expires 6/2013}

Dr. Paulette R. Simington
361 Chatmoss Court Extension
Martinsville, VA 24112
638.1725 (H)
403.5856 (O)
(Henry County)
{Appointed 7/2010}
{Term expires 6/2013}

Mr. Jerry Thompson
2140 Rakes Road
Rocky Mount, VA 24151
540.483.9100 (H)
[Franklin County]
{Appointed 7/2009}
{Term expires 6/2012}

Ms. Peggy Woody
500 Orchard Avenue
Rocky Mount, VA 24151
540.483.5583 (H)
[Franklin County]
{Appointed 7/2009}
{Term expires 6/2012}

Ms. Susan W. Meeks
30 Rockdale Road Apt #3
Collinsville, VA 24078
276.224.4663 (C)
{Appointed 7/1/2010}
At-Large

Mr. David Jones
Post Office Box 450
Patrick Springs, VA 24133
276-694-5315 (H)
{Appointed 7/1/2010}
At-Large

7/1/2011

FY 2012 Community Services Performance Contract

Exhibit D: CSB Board of Directors Membership List

Piedmont Community Services

Name	Address	Phone Number	Start Date	End Date	Term No.
JANE CARLSON	PO BOX 385 STUART,VA 24171	(276) 694-8138	7/1/2011	6/30/2014	1
ASTRID COLE	2295 BIG A SCHOOL ROAD STUART,VA 24171	(276) 694-4257	7/1/2006	6/30/2012	2
Steve Eanes	130 Winthrop Road Ridgeway,VA 24148	(276) 956-1526	7/1/2008	6/30/2013	2
CHARLOTTE HUBBARD	1849 BETHLEHEM ROAD BOONES MILL,VA 24065	(540) 334-5388	7/1/2009	6/30/2012	1
Diane Lovell	115 Belmont Drive Rocky Mount,VA 24151	(540) 483-1232	6/1/2005	6/30/2012	3
TONY, JR MILLNER	109 JONES STREET MARTINSVILLE,VA 24112	(276) 632-3799	7/1/2006	6/30/2012	1
CAROL NELSON	261 FRANK WILSON AVENUE FIELDALE,VA 24089	(276) 673-1691	7/1/2009	6/30/2012	1
Debbie Poirier	PO BOX 1006 MARTINSVILLE,VA 24114	(276) 634-5250	6/30/2005	6/30/2014	3
KAY POTTER	93 TOBACCO ROAD GLADE HILL,VA 24092	(540) 576-2014	7/1/2006	6/30/2014	3
BISHOP JC RICHARDSON	115 MELODY MARTINSVILLE,VA 24112	(276) 632-8340	7/1/2010	6/30/2014	1
Dr. Paulette Simington	361 Chatmoss Court Extension Martinsville,VA 24112	(276) 638-1725	7/1/2010	6/30/2013	1
Fred Spencer	423 Fox Chase Drive Collinsville,VA 24078	(276) 647-1801	7/1/2007	6/30/2013	2
JERRY THOMPSON	2140 RAKES ROAD ROCKY MOUNT,VA 24151	(540) 483-9100	7/1/2009	6/30/2012	1
PEGGY WOODY	500 ORCHARD AVENUE ROCKY MOUNT,VA 24151	(540) 483-5583	7/1/2009	6/30/2012	1

FY 2012 Community Services Performance Contract

Exhibit I: Administrative Performance Standards

Standards

The Board shall meet these administrative performance standards in submitting its performance contract, contract revisions, mid-year and end of fiscal year performance contract reports in the Community Automated Reporting System (CARS) and monthly Community Consumer Submission (CCS) extracts to the Department.

1. The performance contract and any revisions submitted by the Board shall be:

   a. complete, that is all required information is displayed in the correct places and all required Exhibits and Forms, including applicable signature pages, are included;

   b. consistent with Letter of Notification allocations or figures subsequently revised by or negotiated with the Department;

   c. prepared in accordance with instructions in the Department-provided CARS software and any subsequent instructional memoranda; and

   d. received by the due dates listed in Exhibit E of this contract.

   If these performance contract standards are not met, the Department may delay future semi-monthly payments until satisfactory performance is achieved.

2. The current contract term mid-year and the previous contract term end of fiscal year performance contract reports submitted by the Board shall be:

   a. complete, that is all required information is displayed in the correct places, all required data are included in the electronic CARS application reports, and any required paper forms that gather information not included in CARS are submitted;

   b. consistent with the state general and federal block grant funds allocations in the most recent Letter of Notification or figures subsequently revised by or negotiated with the Department;

   c. prepared in accordance with instructions;

   d. (i) internally consistent and arithmetically accurate: all related expense, revenue, and cost data are consistent, congruent, and correct within a report, and (ii) submitted only after errors identified by the CARS error checking programs are corrected; and

   e. received by the due dates listed in Exhibit E of this contract, unless, pursuant to the process on the next page, an extension of the due date for the end of the fiscal year report has been obtained from the Department.

   If these standards are not met for mid-year reports, the Department may delay future semi-monthly payments until satisfactory performance is achieved. If the Board does not meet these standards for its end of the fiscal year reports, the Department may delay future semi-monthly payments until satisfactory performance is achieved, and the Commissioner may contact the Board and local government officials about failure to comply with both aspects of standard 2.d or to satisfy standard 2.e.

3. Monthly consumer, type of care, and service extract files must be submitted by the end of the month following the month of the extract in accordance with the CCS Extract and Design Specifications (including the current Business Rules). If the Board fails to meet the extract submission requirements in Exhibit E of this contract, the Department may delay future semi-monthly payments until satisfactory performance is achieved.

4. Substance abuse prevention units of service data must be submitted to the Department through the KIT Prevention System.

Exhibit I: Administrative Performance Standards

Process for Obtaining an Extension of the End of the Fiscal Year Report Due Date

Extensions will be granted only in very exceptional situations, for example, unanticipated staff, hardware, or software problems such as an ITS failure, a key staff person's illness or accident, or an emergency that makes it impossible to meet the due date.

1. It is the responsibility of the Board to seek, negotiate, obtain, and confirm the Department's approval of an extension of the due date within the time frames specified below.

2. As soon as the Board becomes aware that its end of the fiscal year report cannot be submitted in time to be received in the Department by 5:00 p.m. on the due date in Exhibit E in the current contract term, its executive director must inform the Office of Community Contracting Director or Community Contracting Administrator that it is requesting an extension of this due date. This request should be submitted as soon as possible and it must be in writing, describe completely the reason(s) and need for the extension, and state the date on which the Department will receive the report.

3. The written request for an extension must be received in the Office of Community Contracting no later than 5:00 p.m. on the fourth business day before the date in the second step. A facsimile transmission of the request to the number used by the Office of Community Contracting (804-371-0092), received by that time and date, is acceptable if receipt of the transmission is confirmed with a return facsimile memo from the Office no later than 5:00 p.m. on the third business day before the date in the second step. Telephone extension requests are not acceptable and will not be processed.

4. The Office of Community Contracting will act on all requests for due date extensions that are received in accordance with this process and will notify the requesting Boards by facsimile transmission of the status of their requests by 5:00 p.m. on the second business day before the date in the second step.

5. If an extension of the end of the fiscal year report due date is granted, this will not result in automatic continuation of semi-monthly payments. All of the requirements for these payments, contained in Exhibit E, must be satisfied for semi-monthly payments to continue.

Exhibit J: Joint Agreements

If the Board enters into a joint agreement pursuant to § 37.2-512 or § 37.2-615 of the Code of Virginia, the Board shall describe the agreement in this exhibit and attach a copy of the joint agreement to this Exhibit.

Exhibit K: General Requirements

These general requirements apply to the Board and the Department and the services included in this contract. Any substantive change in these requirements, except changes in statutory, regulatory, policy, or other requirements which are made in accordance with processes or procedures associated with those statutes, regulations, policies, or other requirements, shall be made in accordance with applicable provisions of the Partnership Agreement and shall be considered to be a performance contract amendment that requires a new contract signature page, signed by both parties.

I. Board Requirements

A. Compliance with State Requirements

1. **General State Requirements:** The Board shall comply with applicable state statutes and regulations, State Board of Behavioral Health and Developmental Services (State Board) regulations and policies, and Department procedures including:
   - **a.** Community Services Boards, § 37.2-500 through § 37.2-512 or Behavioral Health Authorities, § 37.2-600 through § 37.2-615 of the Code of Virginia;
   - **b.** State and Local Government Conflict of Interests Act, § 2.2-3100 through § 2.2-3127 of the Code of Virginia;
   - **c.** Virginia Freedom of Information Act, § 2.2-3700 through § 2.2 -3714 of the Code of Virginia, including its notice of meeting and public meeting provisions;
   - **d.** Government Data Collection and Dissemination Practices Act, § 2.2-3800 through § 2.2-3809 of the Code of Virginia;
   - **e.** Virginia Public Procurement Act, § 2.2-4300 through § 2.2-4377 of the Code of Virginia;
   - **f.** Chapter 8 (Admissions and Dispositions) and other applicable provisions of Title 37.2 and other titles of the Code of Virginia; and
   - **g.** Applicable provisions of the current Appropriation Act.

2. **Protection of Individuals Receiving Services**
   - **a. Human Rights:** The Board shall comply with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.* In the event of a conflict between any of the provisions of this contract and provisions in these regulations, the applicable provisions in the regulations shall apply. The Board shall cooperate with any Department investigation of allegations or complaints of human rights violations, including providing any information needed for the investigation as required under state law and as permitted under 45 CFR § 164.512 (d) in as expeditious a manner as possible.
   - **b. Disputes:** The filing of a complaint or the use of the informal dispute resolution mechanism in the Human Rights Regulations by an individual or his family member or authorized representative shall not adversely affect the quantity, quality, or timeliness of services provided to that individual unless an action that produces such an effect is based on clinical or safety considerations and is documented in the individual's individualized services plan (ISP).

c. **Dispute Resolution Mechanism:** The Board shall develop its own procedures for satisfying requirements in § 37.2-504 or § 37.2-605 of the Code of Virginia for a local dispute resolution mechanism for individuals receiving services.

d. **Licensing:** The Board shall comply with the *Rules and Regulations for the Licensing of Providers or Mental Health, Mental Retardation and Substance Abuse Services.* The Board shall establish a system to ensure ongoing compliance with applicable licensing regulations. Results of licensing reviews, including scheduled reviews, unannounced visits, and complaint investigations, shall be provided to all members of the Board in a timely manner.

3. **Planning**

a. **General Planning:** The Board shall participate in collaborative local and regional service and management information systems planning with state facilities, other Boards, other public and private human services agencies, and the Department, as appropriate. In accordance with § 37.2-504 or § 37.2-605 of the Code of Virginia, the Board shall provide input into long-range planning activities that are conducted by the Department, including the Comprehensive State Plan required by § 37.2-315 of the Code of Virginia. The Board shall report unduplicated community waiting list information to the Department when required for the Comprehensive State Plan update. The Board shall work with local prevention planning bodies composed of representatives of multiple systems and groups to develop community-based prevention plans based on assessed needs and resources and submit annual Community Prevention Plan reports to the Department.

b. **Participation in State Facility Planning Activities:** The Board shall participate in collaborative planning activities with the Department to the greatest extent possible regarding the future role and structure of the state facilities.

4. **Interagency Relationships**

a. Pursuant to the case management requirements of § 37.2-500 or § 37.2-601 of the Code of Virginia, the Board shall, to the extent practicable, develop and maintain linkages with other community and state agencies and facilities that are needed to assure that individuals it serves are able to access treatment, training, rehabilitative, and habilitative mental health, developmental, or substance abuse services and supports identified in their individualized services plans. The Board shall comply with § 37.2-504 or § 37.2-605 of the Code of Virginia regarding interagency agreements.

b. The Board also shall develop and maintain, in conjunction with the courts having jurisdiction in the cities or counties served by the Board, cooperative linkages that are needed to carry out the provisions of § 37.2-805 through § 37.2-821 and related sections of the Code of Virginia pertaining to the involuntary admission process.

c. The Board shall develop and maintain the necessary linkages, protocols, and interagency agreements to effect the provisions of the Comprehensive Services Act for At-Risk Youth and Families (§ 2.2-5200 through § 2.2-5214 of the Code of Virginia) that relate to services that it provides. Nothing in this provision shall be construed as requiring the Board to provide services related to this act in the absence of sufficient funds and interagency agreements.

5. **Forensic Services**

a. Upon receipt of a court order pursuant to § 19.2-169.2 of the Code of Virginia, the Board shall provide or arrange for the provision of services to restore the individual to competency to stand trial. These services shall be provided in the local or regional

jail, juvenile detention center (when a juvenile is being tried as an adult), or other location in the community where the individual is currently located. These services shall include treatment and restoration services, emergency services, assessment services, the provision of medications and medication management services, and other services that may be needed by the individual in order to restore him to competency and to prevent his admission to a state hospital for these services.

b. Upon written notification from a state facility that an individual hospitalized for restoration to competency pursuant to § 19.2-169.2 of the Code of Virginia has been restored to competency and is being discharged back to the community, the Board shall to the greatest extent possible provide or arrange for the provision of services in the local or regional jail, juvenile detention center (when a juvenile is being tried as an adult), or other location in the community where the individual is located to that individual to ensure the maintenance of his psychiatric stability and competency to stand trial. Services shall include treatment and restoration services, emergency services, assessment services, the provision of medications and medication management services, and other services which may be needed by the individual in order prevent his readmission to a state hospital for these services.

c. Upon receipt of a court order pursuant to § 16.1-356 of the Code of Virginia, the Board shall perform a juvenile competency evaluation. Upon receipt of a court order pursuant to § 16.1-357, the Board shall provide services to restore a juvenile to competency to stand trial through the Department's statewide contract.

d. Upon receipt of a court order, the Board shall provide or arrange for the provision of forensic evaluations required by local courts in the community in accordance with State Board Policy 1041.

e. Forensic evaluations and treatment shall be performed on an outpatient basis unless the results of an outpatient evaluation indicate that hospitalization is necessary. The Board shall consult with local courts in placement decisions for hospitalization of individuals with a forensic status based upon evaluation of the individual's clinical condition, need for a secure environment, and other relevant factors. The Board's staff shall conduct an assessment of risk to provide information to the Commissioner for the determination of whether an individual with a forensic status in need of hospitalization requires placement in a civil facility or a secure facility. The Board's staff will contact and collaborate with the Forensic Coordinator of the state hospital that serves the Board in making this determination. The Board's assessment shall include those items required prior to admission to a state hospital, per the Continuity of Care Procedures in Appendix A of the Community Services Board Administrative Requirements.

f. The Board shall designate a Forensic Admissions Coordinator, a Forensic Evaluation Coordinator, and an NGRI Coordinator to collaborate with the local courts, the forensic staff of state facilities, and the Department. The Board shall notify the Department's Director of Forensic Services of the name, title, and contact information of these designees and shall inform the Director of any changes in these designations. The Board shall ensure that designated staff complete the forensic training necessary to maintain forensic certification.

g. The Board shall provide discharge planning for persons found not guilty by reason of insanity. Pursuant to § 19.2-182.2 through § 19.2 -182.7, and § 19.2-182.11 of the Code of Virginia, the Board shall provide discharge planning, collaborate with the state facility staff in preparing conditional release plans, implement the court's conditional release orders, and submit written reports to the court on the person's progress and adjustment in the community no less frequently than every six months for acquittees who have been conditionally released to a locality served by the Board.

The Board should provide to the Department's Director of Forensic Services written monthly reports on the person's progress and adjustment in the community for their first 12 continuous months in the community for acquittees who have been conditionally released to a locality served by the Board and copies of court orders regarding acquittees on conditional release.

h. If an individual with a forensic status does not meet the criteria for admission to a state hospital, his psychiatric needs should be addressed in the local jail, prison, detention center, or other correctional facility in collaboration with local treatment providers.

6. **Access to Services for Individuals who are Deaf, Hard of Hearing, Late Deafened, or Deafblind:** The Board should identify and develop a working relationship with the Regional Deaf Services Program and the Regional Deaf Services Coordinator that serve the Board's service area and collaborate with them on the provision of appropriate and linguistically and culturally competent services, consultation, and referral for individuals who are deaf, hard of hearing, late deafened, or deafblind.

7. **Providing Information:** The Board shall provide any information requested by the Department that is related to performance of or compliance with this contract in a timely manner, considering the type, amount, and availability of the information requested. The provision of information shall comply with applicable laws and regulations governing the confidentiality, privacy, and security of information regarding individuals receiving services from the Board.

8. **Reporting Fraud:** Fraud is an intentional wrongful act committed with the purpose of deceiving or causing harm to another party. Upon discovery of circumstances suggesting a reasonable possibility that a fraudulent transaction has occurred, the Board's executive director shall report this information immediately to any applicable local law enforcement authorities and the Department's Internal Audit Director.

9. **Financial Management:** The Board shall comply with following requirements, as applicable.

   a. To avoid any appearance of conflict or impropriety, the Board shall provide complete annual financial statements to its Certified Public Accountant for audit.

   b. All financial reports prepared by the Board for the reliance of third parties shall be reviewed by a designated staff person before the reports are presented or submitted and the reviews shall be documented.

   c. All checks issued by the Board that remain outstanding after one year shall be voided.

   d. All Board bank accounts shall be reconciled regularly, and the reconciliations shall be approved by a designated staff person not involved in preparing the reconciliation.

   e. A contract administrator shall be identified for each contract for the purchase of services entered into by the Board, and every contract shall be signed by a designated staff person and each other party to the contract, where applicable.

   f. Each write-off of account receivables for services to individuals shall be approved and documented by a designated staff person. The Board shall maintain an accounts receivable aging schedule, and debt that is deemed to be uncollectable shall be written off periodically. The Board shall maintain a system of internal controls including separation of duties to safeguard account receivable assets.

g. Each payroll shall be certified by a designated staff person who does not enter or process the Board's payroll.

h. The Board shall maintain documentation and reports for all expenditures related to the federal Mental Health Block Grant and federal Substance Abuse Prevention and Treatment Block Grant funds contained in Exhibit A sufficient to substantiate compliance with the restrictions, conditions, and prohibitions related to those funds.

i. The Board shall maintain an accurate list of fixed assets as defined by the Board. Assets that are no longer working or repairable or are not retained shall be excluded from the list of assets and written off against accumulated depreciation, and their disposition shall be documented by a designated staff person who does not have physical control over the assets. The current location of or responsibility for each asset shall be indicated on the list of fixed assets.

j. Access to the Board's information system shall be controlled and properly documented. Access shall be terminated I a timely manner when a staff member is no longer employed by the Board to ensure security of confidential information about individuals receiving services and compliance with the Health Insurance Portability and Accountability Act of 1996 and associated federal or state regulations.

B. Compliance with Federal Requirements

1. **General Federal Compliance Requirements:** The Board shall comply with all applicable federal statutes, regulations, policies, and other requirements; including applicable provisions of the federal Mental Health Services Block Grant (CFDA 93.958) and the federal Substance Abuse Prevention and Treatment Block Grant (CFDA 93.959) Requirements contained in Appendix C of the Community Services Board Administrative Requirements, and:

   a. the Federal Immigration Reform and Control Act of 1986; and

   b. Confidentiality of Alcohol and Substance Abuse Records, 42 C.F.R. Part 2.

   Non-federal entities, including Boards, expending $500,000 or more in a year in federal awards shall have a single or program-specific audit conducted for that year in accordance with Office of Management and Budget Circular A-133.

   Boards shall prohibit the following acts by themselves, their employees, and agents performing services for them:

   a. the unlawful or unauthorized manufacture, distribution, dispensation, possession, or use of alcohol or other drugs; and

   b. any impairment or incapacitation from the use of alcohol or other drugs (except the use of drugs for legitimate medical purposes).

2. **Disaster Response and Emergency Service Preparedness Requirements:** The Board agrees to comply with section 416 of Public Law 93-288 and § 44-146.13 through § 44-146.28 of the Code of Virginia regarding disaster response and emergency service preparedness. Section 416 of P.L. 93-288 authorizes the State Office of Emergency Services to require the Department to comply with the *Commonwealth of Virginia Emergency Operations Plan, Volume 2,* Emergency Support Function No. 8: Health and Medical Services, Section 4: Emergency Mental Health Services. Section 4 requires the Board to comply with Department directives coordinating disaster planning, preparedness, and response to emergencies and to develop procedures for responding to major disasters. These procedures must address:

   a. conducting preparedness training activities;

b. designating staff to provide counseling;

c. coordinating with state facilities and local health departments or other responsible local agencies, departments, or units in preparing Board all hazards disaster plans;

d. providing crisis counseling and support to local agencies, including volunteer agencies;

e. negotiating disaster response agreements with local governments and state facilities; and

f. identifying community resources.

3. **Federal Certification Regarding Lobbying for the Mental Health and Substance Abuse Prevention and Treatment Block Grants:** The Board certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the Board, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Board shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

   c. The Board shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, or cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

   This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 or more than $100,000 for each failure.

C. Compliance with State and Federal Requirements

1. **Employment Anti-Discrimination**: The Board shall conform to the applicable provisions of Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, Sections 503 and 504 of the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Act of 1974, the Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act of 1990, the Virginians With Disabilities Act, the Virginia Fair Employment Contracting Act, the Civil Rights Act of 1991, regulations issued by Federal Granting Agencies, and other applicable statutes and regulations, including § 2.2-4310 of the Code of Virginia. The Board agrees as follows.

   a. The Board will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is

a bona fide occupational qualification reasonably necessary to the normal operation of the Board. The Board agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The Board, in all solicitations or advertisements for employees placed by or on behalf of the Board, will state that it is an equal opportunity employer.

c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting these requirements.

2. **Service Delivery Anti-Discrimination:** The Board shall conform to the applicable provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act of 1990, the Virginians With Disabilities Act, the Civil Rights Act of 1991, regulations issued by the U.S. Department of Health and Human Services pursuant thereto, other applicable statutes and regulations, and paragraphs a and b below.

   a. Services operated or funded by the Board have been and will continue to be operated in such a manner that no person will be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under such services on the grounds of race, religion, color, national origin, age, gender, or disability.

   b. The Board and its direct and contractual services will include these assurances in their services policies and practices and will post suitable notices of these assurances at each of their facilities in areas accessible to individuals receiving services.

   c. The Board will periodically review its operating procedures and practices to insure continued conformance with applicable statutes, regulations, and orders related to non-discrimination in service delivery.

II. Department Requirements

A. Compliance with State Requirements

1. **Human Rights:** The Department shall operate the statewide human rights system described in the *Human Rights Regulations*, monitor compliance with the human rights requirements in those regulations, and conduct reviews and investigations referenced in those regulations. The Department's human rights staff shall be available on a daily basis, including weekends and holidays, to receive reports of allegations of violations of the human rights of individuals receiving services from the Board.

2. **Licensing:** The Department shall license programs and services that meet the requirements of the *Licensing Regulations* and conduct licensing reviews in accordance with the provisions of those regulations. The Department shall respond in a timely manner to issues raised by the Board regarding its efforts to coordinate and monitor services provided by independent providers licensed by the Department. Pursuant to the Licensing Review Protocol for CARF-Accredited Board Outpatient and Day Support Services, contained in the Community Services Board Administrative Requirements, the Department's Office of Licensing shall accept CARF surveys as a review of regulation compliance for those licensing regulations or standards that are the same for outpatient and day support services at Boards that have triennial licenses for these services. These regulations or standards are identified in the crosswalk between the licensing regulations and CARF standards in the CSB Administrative Requirements.

3. **Reviews:** The Department shall review and take appropriate action on audits submitted by the Board in accordance with the provisions of this contract and the Community Services Board Administrative Requirements. The Department may conduct procurement, financial management, reimbursement, and human resource management reviews of a Board's operations, in accordance with provisions in the Community Services Board Administrative Requirements.

4. **Planning:** The Department shall conduct long-range planning activities related to state facility and community services, including the preparation and dissemination of the Comprehensive State Plan required by § 37.2-315 of the Code of Virginia.

5. **Information Technology:** The Department shall operate and provide technical assistance and support, to the extent practicable, to the Board about the CARS and the Community Consumer Submission (CCS) software referenced in this contract and comply with State Board Policies 1030 and 1037. The Department shall operate the FIMS and the KIT Prevention System referenced in this contract. Pursuant to § 37.2-504 and § 37.2-605 of the Code of Virginia, the Department shall implement procedures to protect the confidentiality of data accessed or received in accordance with this contract. The Department shall ensure that any software application that it issues to the Board for reporting purposes associated with this contract has been field tested by a reasonable number of Boards to assure compatibility and functionality with the major IT systems used by Boards, is operational, and is provided to the Board sufficiently in advance of reporting deadlines to allow the Board to install and run the software application.

6. **Providing Information:** The Department shall provide any information requested by the Board that is related to performance of or compliance with this contract in a timely manner, considering the type, amount, and availability of the information requested.

FY 2012 Community Services Performance Contract: Central Office, State Facility, and Community Services Board Partnership Agreement

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Section 1: Purpose

Collaboration through partnerships is the foundation of Virginia's public system of mental health and substance abuse (behavioral health) and developmental services. The Central Office of the Department of Behavioral Health and Developmental Services, State Hospitals and Training Centers (State Facilities) operated by the Department, and Community Services Boards (CSBs), which are entities of local governments, are the operational partners in Virginia's public system for providing these services. CSBs include operating CSBs, administrative policy CSBs, and local government departments with policy-advisory CSBs and behavioral health authorities that are established pursuant to Chapters 5 and 6, respectively, of Title 37.2 of the Code of Virginia.

Pursuant to State Board Policy 1034, the partners enter into this agreement to implement the vision statement articulated in State Board Policy 1036 and to improve the quality of care provided to individuals receiving services (individuals) and enhance the quality of their lives. The goal of this agreement is to establish a fully collaborative partnership process through which CSBs, the Central Office, and State Facilities can reach agreements on operational and policy matters and issues. In areas where it has specific statutory accountability, responsibility, or authority, the Central Office will make decisions or determinations with the fullest possible participation and involvement by the other partners. In all other areas, the partners will make decisions or determinations jointly. The partners also agree to make decisions and resolve problems at the level closest to the issue or situation, whenever possible. Nothing in this partnership agreement nullifies, abridges, or otherwise limits or affects the legal responsibilities or authorities of each partner, nor does this agreement create any new rights or benefits on behalf of any third parties.

The partners share a common desire for the system of care to excel in the delivery and seamless continuity of services for individuals and their families and seek similar collaborations or opportunities for partnerships with advocacy groups for individuals and their families and other system stakeholders. We believe that a collaborative strategic planning process helps to identify the needs of individuals and ensures effective resource allocation and operational decisions that contribute to the continuity and effectiveness of care provided across the public mental health, developmental, and substance abuse services system. We agree to engage in such a collaborative planning process.

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The Central Office, State Facility, and CSB partnership reflects a common purpose derived from:

1. Codified roles defined in Chapters 3, 4, 5, 6, 7, and 8 of Title 37.2 of the Code of Virginia, as delineated in the Community Services Performance Contract;
2. Philosophical agreement on the importance of services and supports that are person-centered and individual-driven and other core goals and values contained in this partnership agreement;
3. Operational linkages associated with funding, program planning and assessment, and joint efforts to address challenges to the public system of services; and
4. Quality improvement-focused accountability to individuals receiving services and family members, local and state governments, and the public at large, as described in the accountability section of this partnership agreement.

This partnership agreement also establishes a framework for covering other relationships that may exist among the partners. Examples of these relationships include regional initiatives such as the Region IV Acute Care Pilot Project, regional utilization management teams, the planning partnership regions, and the initiative to promote integrated services for individuals with co-occurring mental health and substance use disorders.

Section 2: Roles and Responsibilities

Although this partnership philosophy helps to ensure positive working relationships, each partner has a unique role in providing public mental health, developmental, and substance abuse services. These distinct roles promote varying levels of expertise and create opportunities for identifying the most effective mechanisms for planning, delivering, and evaluating services.

Central Office

1. Ensures through distribution of available state and federal funding that an individual-driven and community-based system of care, supported by community and state facility resources, exists for the delivery of publicly funded services and supports to individuals with mental health or substance use disorders or intellectual disability.

2. Promotes at all locations of the public mental health, developmental, and substance abuse service delivery system (including the Central Office) quality improvement efforts that focus on individual outcome and provider performance measures designed to enhance service quality, accessibility, and availability, and provides assistance to the greatest extent practicable with Department-initiated surveys and data requests.

3. Supports and encourages the maximum involvement and participation of individuals receiving services and family members of individuals receiving services in policy formulation and services planning, delivery, monitoring, and evaluation.

4. Ensures fiscal accountability that is required in applicable provisions of the Code of Virginia, relevant state and federal regulations, and policies of the State Board of Behavioral Health and Developmental Services.

5. Promotes identification of state-of-the-art, best or promising practice, or evidence-based programming and resources that exist as models for consideration by other partners.

6. Seeks opportunities to affect regulatory, policy, funding, and other decisions made by the Governor, the Secretary of Health and Human Resources, the General Assembly, the Department of Medical Assistance Services and other state agencies, and federal agencies that interact with or affect the other partners.

7. Encourages and facilitates state interagency collaboration and cooperation to meet the service needs of individuals and to identify and address statewide interagency issues that affect or support an effective system of care.

8. Serves as the single point of accountability to the Governor and the General Assembly for the public system of mental health, developmental, and substance abuse services.

9. Problem solves and collaborates with a CSB and State Facility together on a complex or difficult situation involving an individual who is receiving services when the CSB and State Facility have not been able to resolve the situation successfully at their level.

Community Services Boards

1. Pursuant to § 37.2-500 of the Code of Virginia and State Board Policy 1035, serve as the single points of entry into the publicly funded system of individual-driven and community-based services and supports for individuals with mental health or substance use disorders or intellectual disability, including individuals with co-occurring disorders in accordance with State Board Policy 1015.

2. Serve as the local points of accountability for the public mental health, developmental, and substance abuse service delivery system.

3. To the fullest extent that resources allow, promote the delivery of community-based services that address the specific needs of individuals, particularly those with complex needs, with a focus on service quality, accessibility, integration, and availability and on self-determination, empowerment, and recovery.

4. Support and encourage the maximum involvement and participation of individuals receiving services and family members of individuals receiving services in policy formulation and services planning, delivery, monitoring, and evaluation.

5. Establish services and linkages that promote seamless and efficient transitions of individuals between state facility and local community services.

6. Promote sharing of program knowledge and skills with other partners to identify models of service delivery that have demonstrated positive outcomes for individuals receiving services.

7. Problem-solve and collaborate with State Facilities on complex or difficult situations involving individuals receiving services.

8. Encourage and facilitate local interagency collaboration and cooperation to meet the other services and supports needs of individuals receiving services.

State Facilities

1. Provide psychiatric hospitalization and other services to individuals identified by CSBs as meeting statutory requirements for admission in § 37.2-817 of the Code of Virginia and criteria in the Continuity of Care Procedures in the Community Services Boards Administrative Requirements, including the development of specific capabilities to meet the needs of individuals with co-occurring mental health and substance use disorders in accordance with State Board Policy 1015.

2. Within the resources available, provide residential, training, or habilitation services to individuals with intellectual disability identified by CSBs as needing those services and who are certified for admission pursuant to § 37.2-806 of the Code of Virginia.

3. To the fullest extent that resources allow, provide services that address the specific needs of individuals with a focus on service quality, accessibility, and availability and on self-determination, empowerment, and recovery.

4. Support and encourage the involvement and participation of individuals receiving services and family members of individuals receiving services in policy formulation and services planning, delivery, monitoring, and evaluation.

5. Establish services and linkages that promote seamless and efficient transitions of individuals between state facility and local community services.

6. Promote sharing of program knowledge and skills with other partners to identify models of service delivery that have demonstrated positive outcomes for individuals.

7. Problem-solve and collaborate with CSBs on complex or difficult situations involving individuals receiving services.

Recognizing that these unique roles create distinct visions and perceptions of individual and service needs at each point (statewide, communities, and state facilities) of services planning, management, delivery, and evaluation, the partners are committed to maintaining effective lines of communication with each other and with other providers involved in the services system through their participation in regional partnerships generally and for addressing particular challenges or concerns. Mechanisms for communication include the System Leadership Council; representation on work groups, task forces, and committees; use of websites and electronic communication; consultation activities; and circulation of drafts for soliciting input from other partners. When the need for a requirement is identified, the partners agree to use a participatory process, similar to the process used by the Central Office to develop Departmental Instructions for State Facilities, to establish the requirement.

These efforts by the partners will help to ensure that individuals have access to a public, individual-driven, person-centered, community-based, and integrated system of mental health, developmental, and substance abuse services that maximizes available resources, adheres to the most effective, evidence-based, best, or promising service delivery practices, utilizes the extensive expertise that is available within the public system of care, and encourages and supports the self-determination, empowerment, and recovery of individuals receiving services, including the provision of services by them.

Section 3: Core Values

The Central Office, State Facilities, and CSBs, the partners to this agreement, share a common desire for the public system of care to excel in the delivery and seamless continuity of services to individuals receiving services and their families. While they are interdependent, each partner works independently with both shared and distinct points of accountability, such as state, local or federal governments, other funding sources, individuals receiving services, and families. The partners embrace common core values that guide the Central Office, State Facilities, and CSBs in developing and implementing policies, planning services, making decisions, providing services, and measuring the effectiveness of service delivery.

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Vision Statement

Our core values are based on our vision, articulated in State Board Policy 1036, for the public mental health, developmental, and substance abuse services system. Our vision is of a individual-driven and community-based system of services and supports that promotes self-determination, empowerment, recovery, resilience, health, and the highest possible level of participation by individuals receiving services in all aspects of community life, including work, school, family, and other meaningful relationships. This vision also incorporates the principles of inclusion, participation, and partnership.

Core Values

1. The Central Office, State Facilities, and CSBs are working in partnership; we hold each other accountable for adhering to our core values.

2. As partners, we will focus on fostering a culture of responsiveness instead of regulation, finding solutions rather than assigning responsibility, emphasizing flexibility over rigidity, and striving for continuous quality improvement, not just process streamlining.

3. As partners, we will make decisions and resolve problems at the level closest to the issue or situation whenever possible.

4. Services should be provided in the least restrictive and most integrated environment possible. Most integrated environment means a setting that enables individuals with disabilities to interact with persons without disabilities to the fullest extent possible.

5. All services should be designed to be welcoming, accessible, and capable of providing interventions properly matched to the needs of individuals with co-occurring disorders.

6. Community and state facility services are integral components of a seamless public, individual-driven, and community-based system of care.

7. The goal of all components of our public system of care is that the individuals we serve recover, realize their fullest potential, or move to independence from our care.

8. The participation of the individual and, when one is appointed or designated, the individual's authorized representative in treatment planning and service evaluation is necessary and valuable and has a positive effect on service quality and outcomes.

9. The individual's responsibility for and active participation in his or her care and treatment are very important and should be supported and encouraged whenever possible.

10. Individuals receiving services have a right to be free from abuse, neglect, or exploitation and to have their human rights assured and protected.

11. Choice is a critically important aspect of participation and dignity for individuals receiving services, and it contributes to their satisfaction and desirable outcomes. Individuals should be provided as much as possible with responsible and realistic opportunities to choose.

12. Family awareness and education about a person's disability or illness and services are valuable whenever the individual with the disability supports these activities.

13. Whenever it is clinically appropriate, children and adolescents should receive services provided in a manner that supports maintenance of their home and family environment. Family includes single parents, grandparents, older siblings, aunts or uncles, and other persons who have accepted the child or adolescent as part of their family.

14. Children and adolescents should be in school and functioning adequately enough that the school can maintain them and provide an education for them.

15. Living in safe and affordable housing in the community with the highest level of independence possible is a desired outcome for adults receiving services.

16. Gaining or maintaining meaningful employment improves the quality of life for adults with mental health or substance use disorders or intellectual disability and is a desired outcome for adults receiving services.

17. Lack of involvement or a reduced level of involvement with the criminal justice system, including court-ordered criminal justice services, improves the quality of life of all individuals.

18. Pursuant to State Board Policy 1038, the public, individual-driven, and community-based mental health, developmental, and substance abuse services system serves as a safety net for individuals, particularly people who are uninsured or under-insured, who do not have access to other service providers or alternatives.

Section 4: Indicators Reflecting Core Values

Nationwide, service providers, funding sources, and regulators have sought instruments and methods to measure system effectiveness. No one system of evaluation is accepted as the method, as perspectives about the system and desired outcomes vary, depending on the unique role (e.g., as an individual receiving services, family member, payer, provider, advocate, or member of the community) that one has within the system.

Simple, cost-effective measures reflecting a limited number of core values or expectations identified by the Central Office, State Facilities, and CSBs guide the public system of care in Virginia. Any indicators or measures should reflect the core values listed in the preceding section. The partners agree to identify, prioritize, collect, and utilize these measures as part of the quality assurance systems mentioned in section 6 of this agreement and in the quality improvement plan described in section 6.b of the Community Services Performance Contract.

Section 5: Advancing the Vision

The partners agree to engage in activities to advance the achievement of the Vision Statement contained in State Board Policy 1036 and section 3 of this agreement, including these activities.

1. **Recovery:** The partners agree, to the greatest extent possible, to:
   a. provide more opportunities for individuals receiving services to be involved in decision-making,
   b. increase recovery-oriented, peer-provided, and consumer-run services,
   c. educate staff and individuals receiving services about recovery, and
   d. assess and increase the recovery orientation of CSBs, the Central Office, and state hospitals.

2. **Integrated Services:** The partners agree to advance the values and principles in the Charter Agreement signed by the Board and the Central Office and to increase effective screening and assessment of individuals for co-occurring disorders to the greatest extent possible.

3. **Person-Centered Planning:** The partners agree to promote awareness of the principles of person-centered planning, disseminate and share information about person-centered planning, and participate on work groups focused on implementing person-centered planning.

Section 6: Critical Success Factors

The partners agree to engage in activities that will address the seven critical success factors identified in *Envision the Possibilities: An Integrated Strategic Plan for Virginia's Mental Health, Mental Retardation and Substance Abuse Services System*, January 2006. These critical success factors, listed below and described more fully in the *Integrated Strategic Plan*, are required to transform the current service system's crisis response orientation to one that provides incentives and rewards for implementing the vision of a recovery and resilience-oriented and person-centered system of services and supports. Successful achievement of these critical success factors will require the support and collective ownership of all system stakeholders.

1. Virginia successfully implements a recovery and resilience-oriented and person-centered system of services and supports.

2. Publicly funded services and supports that meet growing mental health, developmental, and substance abuse services needs are available and accessible across the Commonwealth.

3. Funding incentives and practices support and sustain quality care focused on individuals receiving services and supports, promote innovation, and assure efficiency and cost-effectiveness.

4. State facility and community infrastructure and technology efficiently and appropriately meet the needs of individuals receiving services and supports.

5. A competent and well-trained mental health, developmental, and substance abuse services system workforce provides needed services and supports.

6. Effective service delivery and utilization management assures that individuals and their families receive services and supports that are appropriate to their needs.

7. Mental health, developmental, and substance abuse services and supports meet the highest standards of quality and accountability.

Section 7: Accountability

The Central Office, State Facilities, and CSBs agree that it is necessary and important to have a system of accountability. The partners also agree that any successful accountability system requires early detection with faithful, accurate, and complete reporting and review of agreed-upon accountability indicators. The partners further agree that early detection of problems and collaborative efforts to seek resolutions improve accountability. To that end, the partners commit themselves to a problem identification process defined by open sharing of performance concerns and a mutually supportive effort toward problem resolution. Technical assistance, provided in a non-punitive manner designed not to "catch" problems but to resolve them, is a key component in an effective system of accountability.

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Where possible, joint work groups, representing CSBs, the Central Office, and State Facilities, shall review all surveys, measures, or other requirements for relevance, cost benefit, validity, efficiency, and consistency with this statement prior to implementation and on an ongoing basis as requirements change. In areas where it has specific statutory accountability, responsibility, or authority, the Central Office will make decisions or determinations with the fullest possible participation and involvement by the other partners. In all other areas, the partners will make decisions or determinations jointly.

The partners agree that when accreditation or another publicly recognized independent review addresses an accountability issue or requirement, where possible, compliance with this outside review will constitute adherence to the accountability measure or reporting requirement. Where accountability and compliance rely on affirmations, the partners agree to make due diligence efforts to comply fully. The Central Office reserves the powers given to the Department to review and audit operations for compliance and veracity and upon cause to take actions necessary to ensure accountability and compliance.

Desirable and Necessary Accountability Areas

1. **Mission of the System.** As part of a mutual process, the partners, with maximum input from stakeholders and individuals receiving services, will define a small number of key missions for the public community and state facility services system and a small number of measures for these missions. State Facilities and CSBs will report on these measures at a minimum frequency necessary to determine the level and pattern of performance over several years.

2. **Central Office Accountability.** In addition to internal governmental accountability, the Central Office agrees to support the mission of the public services system by carrying out its functions in accordance with the vision and values articulated in section 3. Accountability for the Central Office will be defined by the fewest necessary measures of key activities that will be reported at a minimum frequency necessary to determine the level and pattern of performance over several years.

3. **State Facility Accountability.** In addition to internal governmental accountability, State Facilities agree to support the mission of the public services system by carrying out their functions in accordance with the vision and values articulated in section 3. Accountability for State Facilities will be defined by the fewest necessary measures of key activities that will be reported at a minimum frequency necessary to determine the level and pattern of performance over several years.

4. **CSB Accountability.** In addition to internal governmental accountability, CSBs agree to support the mission of the public services system by carrying out their functions in accordance with the vision and values articulated in section 3. Accountability for CSBs will be defined by the fewest necessary measures of key activities that will be reported at a minimum frequency necessary to determine the level and pattern of performance over several years.

5. **Legislative Accountability.** Additional reporting or responses may be required of CSBs, the Central Office, or State Facilities by the General Assembly or for a legislative request or study.

6. **Quality Improvement.** CSBs, State Facilities, and the Central Office will manage internal quality improvement, quality assurance, and corporate compliance systems to monitor activities, detect and address problems, and minimize risk. These activities require no standardized reporting outside of that contained in law, regulation, or policy. The partners agree to identify and, wherever possible, implement evidence-based best practices and

programs to improve the quality of care that they provide. In the critically important area of service integration for individuals with co-occurring disorders, the partners agree to

a. engage in periodic organizational self-assessment using identified tools,

b. develop a work plan that prioritizes quality improvement opportunities in this area,

c. monitor progress in these areas on a regular basis, and

d. adjust the work plan as appropriate.

7. **Fiscal.** Funds awarded or transferred by one partner to another for a specific identified purpose should have sufficient means of accountability to ensure that expenditures of funds were for the purposes identified. The main indicators for this accountability include an annual CPA audit by an independent auditing firm or an audit by the Auditor of Public Accounts and reports from the recipient of the funds that display the amounts of expenditures and revenues, the purposes for which the expenditures were made and, where necessary, the types and amounts of services provided. The frequency and detail of this reporting shall reflect the minimum necessary.

8. **Compliance with Departmental Regulatory Requirements for Service Delivery.** In general, regulations ensure that entities operate within the scope of acceptable practice. The system of Department licensing, in which a licensed entity demonstrates compliance by policy, procedure, or practice with regulatory requirements for service delivery, is a key accountability mechanism. Where a service is not subject to state licensing, the partners may define minimum standards of acceptable practice. Where CSBs obtain nationally recognized accreditation covering services for which the Department requires a license, the Department, to the degree practical and with the fullest possible participation and involvement by the other partners, will consider substituting the accreditation in whole or in part for the application of specific licensing standards.

9. **Compliance with Federal and Non-Department Standards and Requirements.** In areas where it has specific statutory accountability, responsibility, or authority, the Central Office will make decisions or determinations with the fullest possible participation and involvement by the other partners. In all other areas, the partners will make decisions or determinations jointly. The Central Office agrees to identify the minimum documentation needed from the other partners to indicate their compliance with applicable Federal and non-Departmental standards and requirements. Where possible, this documentation shall include affirmations by CSBs or State Facilities in lieu of direct documentation. The partners shall define jointly the least intrusive and least costly compliance strategies, as necessary.

10. **Compliance with Department-Determined Requirements.** In areas where it has specific statutory accountability, responsibility, or authority, the Central Office will make decisions or determinations with the fullest possible participation and involvement by the other partners. In all other areas, the partners will make decisions or determinations jointly. The Central Office agrees to define the minimum compliance system necessary to ensure that CSBs and State Facilities perform due diligence in regard to requirements established by the Central Office and that this definition will include only the minimum necessary to meet the intent of the State law or State Board policy for which the requirement is created. Where equivalent local government standards are in place, compliance with the local standards shall be acceptable.

11. **Medicaid Requirements.** The Central Office agrees to work proactively with the Department of Medical Assistance Services (DMAS) to create an effective system of accountability that will ensure services paid for by the DMAS meet minimum standards for quality care and for the

defined benefit. The Central Office, and CSBs to the fullest extent possible, will endeavor to assist the DMAS in regulatory and compliance simplification in order to focus accountability on the key and most important elements.

12. **Maximizing State and Federal Funding Resources.** The partners agree to collect and utilize available revenues from all appropriate sources to pay for services in order to extend the use of state and federal funds as much as possible to serve the greatest number of individuals in need of services. Sources include Medicaid cost-based, fee-for service, Targeted Case Management, Rehabilitation (State Plan Option), and ID Waiver payments; other third party payers; auxiliary grants; food stamps; SSI, SSDI, and direct payments from individuals; payments or contributions of other resources from other agencies, such as local social services or health departments; and other state or local funding sources.

13. **Information for Decision-Making.** The partners agree to work collaboratively to
    a. improve the accuracy, timeliness, and usefulness of data provided to funding sources and stakeholders;
    b. enhance infrastructure and support for information technology systems and staffing; and
    c. use this information in their decision-making about resources, services, policies, and procedures and to communicate more effectively with funding sources and stakeholders about the activities of the public services system and its impact on individuals receiving services and their families.

Section 8: Involvement and Participation of Individuals Receiving Services and Their Family Members

1. **Involvement and Participation of Individuals Receiving Services and Their Family Members:** CSBs, State Facilities, and the Central Office agree to take all necessary and appropriate actions in accordance with State Board Policy 1040 to actively involve and support the maximum participation of individuals receiving services and their family members in policy formulation and services planning, delivery, monitoring, and evaluation.

2. **Involvement in Individualized Services Planning and Delivery by Individuals Receiving Services and Their Family Members:** CSBs and State Facilities agree to involve individuals receiving services and, with the consent of individuals where applicable, family members, authorized representatives, and significant others in their care, including the maximum degree of participation in individualized services planning and treatment decisions and activities, unless their involvement is not clinically appropriate.

3. **Language:** CSBs and State Facilities agree that they will endeavor to deliver services in a manner that is understood by individuals receiving services. This involves communicating orally and in writing in the preferred languages of individuals, including Braille and American Sign Language when applicable, and at appropriate reading comprehension levels.

4. **Culturally Competent Services:** CSBs and State Facilities agree that in delivering services they will endeavor to address to a reasonable extent the cultural and linguistic characteristics of the geographic areas and populations that they serve.

Section 9: System Leadership Council. The System Leadership Council, established by the partners through this agreement, includes representatives of the Central Office, State Facilities, the State Board of Behavioral Health and Developmental Services, CSBs, individuals receiving

services and their families, local governments, the criminal justice system, private providers, and other stakeholders. The Council will meet at least quarterly to, among other responsibilities:

1. identify, discuss, and resolve issues and problems;

2. examine current system functioning and identify ways to improve or enhance the operations of the public mental health, developmental, and substance abuse services system; and

3. identify, develop, propose, and monitor the implementation of new service modalities, systemic innovations, and other approaches for improving the accessibility, responsiveness, and cost effectiveness of publicly funded mental health, developmental, and substance abuse services.

Section 10: Communication. CSBs, State Facilities, and the Central Office agree to communicate fully with each other to the greatest extent possible. Each partner agrees to respond in a timely manner to requests for information from other partners, considering the type, amount, and availability of the information requested.

Section 11: Quality Improvement. On an ongoing basis, the partners agree to work together to identify and resolve barriers and policy and procedural issues that interfere with the most effective and efficient delivery of public mental health, developmental, and substance abuse services.

Section 12: Reviews, Consultation, and Technical Assistance. CSBs, State Facilities, and the Central Office agree, within the constraints of available resources, to participate in review, consultation, and technical assistance activities to improve the quality of services provided to individuals and to enhance the effectiveness and efficiency of their operations.

Section 13: Revision. This is a long-term agreement that should not need to be revised or amended annually. However, the partners agree that this agreement may be revised at any time with the mutual consent of the parties. When revisions become necessary, they will be developed and coordinated through the System Leadership Council. Finally, either party may terminate this agreement with six months written notice to the other party and to the System Leadership Council.

Section 14: Relationship to the Community Services Performance Contract. This partnership agreement, by agreement of the parties, is hereby incorporated into and made a part of the current Community Services Performance Contract.

Section 15: Implementation of *Creating Opportunities* Initiatives: The partners agree to work collaboratively to implement initiatives developed jointly in response to *Creating Opportunities: A Plan for Advancing Community-Focused Services in Virginia.*

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Section 16: Signatures. In witness thereof, the CSB and the Department, acting on behalf of the Central Office and the State Facilities that it operates, have caused this partnership agreement to be executed by the following duly authorized officials.

Virginia Department of Behavioral Health and Developmental Services

By: _____

Name: James W. Stewart, III
Title: Commissioner

Date: _____

Piedmont Community Services
Community Services Board

By: Fred Spencer

Name: Fred Spencer
Title: Board Chairperson

Date: 6-10-11

By: [illegible]

Name: James Tobin
Title: Executive Director

Date: 6-9-11

Appendix A: Continuity of Care Procedures

Overarching Responsibility: Sections 37.2-500 and 37.2-601 of the Code of Virginia and State Board Policy 1035 state that community services boards (CSBs) are the single points of entry into publicly funded mental health, mental retardation, and substance abuse services. Related to this principle and as required by § 37.2-505 of the Code of Virginia, it is the responsibility of Boards to assure that individuals receive:

- preadmission screening that confirms the appropriateness of admission to a state hospital or training center (state facilities) and
- discharge planning services, beginning at the time of admission to the state facility, that enable timely discharge from the state facility and appropriate post-discharge, community-based services.

Throughout this Appendix, the term community services board (CSB) is used to refer to an operating CSB, an administrative policy CSB, a local government department with a policy-advisory CSB, or a behavioral health authority, also referred to in the Community Services Performance Contract as Boards. State hospital is defined in § 37.2-100 of the *Code of Virginia* as a hospital, psychiatric institute, or other institution operated by the Department that provides care and treatment for persons with mental illness. Training center is defined in § 37.2-100 as a facility operated by the Department for the treatment, training, or habilitation of persons with mental retardation (intellectual disability).

These Continuity of Care Procedures must be read and implemented in conjunction with the *Discharge Protocols for Community Services Boards and State Hospitals* issued by the Department on 12-01-2010, incorporated by reference as part of this document, and available on the Department's web site at www.dbhds.virginia.gov/documents/OMH-DischargeProtocols.pdf or the *Admission and Discharge Protocols for Individuals with Intellectual Disabilities* issued by the Department and effective on 03-01-2011, incorporated by reference as part of this document, and available on the Department's web site at www.dbhds.virginia.gov/documents/ODS/ods-Admission-Discharge-Protocol.pdf. Applicable provisions in those protocols have replaced most treatment team, discharge, and post-discharge activities that were described in earlier versions of these procedures; however a few remain in the procedures. In the event of a conflict between any Continuity of Care Procedures and these *Protocols*, provisions in the protocols shall apply.

I. State Facility Admission Criteria

A. State Hospitals

1. An individual must meet the following criteria for admission to a state hospital.

   a. **Adults:** The individual meets one of the criteria in section A. 1.) below or one or more of the other criteria listed in section A and the criterion in section B:

   Section A:

   1.) the person has a mental illness and there is a substantial likelihood that, as a result of mental illness, the person will, in the near future,

   a.) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or

   b.) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs[1]; or

   [1] Criteria for involuntary admission for inpatient treatment to a facility pursuant to § 37.2-817.C of the Code of Virginia.

2.) the person has a condition that requires intensive monitoring of newly prescribed drugs with a high rate of complications or adverse reactions; or

3.) the person has a condition that requires intensive monitoring and intervention for toxic effects from therapeutic psychotropic medication and short term community stabilization is not deemed to be appropriate; and

Section B:

4.) all available less restrictive treatment alternatives to involuntary inpatient treatment that would offer an opportunity for the improvement of the person's condition have been investigated and determined to be inappropriate (§37.2-817.C of the Code of Virginia).

b. **Children and Adolescents:** Due to a mental illness, the child or adolescent meets one or more of the criteria in section A and both criteria in section B:

Section A:

1.) presents a serious danger to self or others such that severe or irremediable injury is likely to result, as evidenced by recent acts or threats[2]; or

2.) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusional thinking or significant impairment of functioning in hydration, nutrition, self-protection, or self control[2]; or

[2] Criteria for parental or involuntary admission to a state hospital.

3.) requires monitoring of newly prescribed drugs with a high rate of complications or adverse reactions or monitoring for toxic effects from therapeutic psychotropic medication; and

Section B:

4.) is in need of inpatient treatment for a mental illness and is likely to benefit from the proposed treatment; and

5.) all treatment modalities have been reviewed and inpatient treatment at a state hospital is the least restrictive alternative that meets the minor's needs (§ 16.1-338, §16.1-339, and § 16.1-344 of the Code of Virginia).

The determination of least restrictive alternative should be a joint decision of the case management CSB and the receiving state hospital, with input from the individual receiving services and family members. The CSB must document specific community alternatives considered or attempted and the specific reasons why state hospital placement is the least restrictive setting for the individual at this time.

2. Admission to state hospitals is not appropriate for:

a. individuals who have behaviors that are due to medical disorders, neurological disorders (including head injury), or intellectual disability and who do not have a qualifying psychiatric diagnosis or serious emotional disturbance;

b. individuals with unstable medical conditions that require detoxification services or other extensive medical services;

c. individuals with a diagnosis of dementia, as defined in the Diagnostic and Statistical Manual, unless they also have significant behavioral problems, as determined by qualified state hospital staff;

d. individuals with primary diagnoses of adjustment disorder, anti-social personality disorder, or conduct disorder; and

e. individuals with a primary diagnosis of substance use disorder unless it is a co-occurring disorder with a qualifying psychiatric diagnosis or serious emotional disturbance.

3. In most cases, individuals with severe or profound levels of intellectual disability are not appropriate for admission to a state hospital. However, individuals with a mental illness who are also diagnosed with mild or moderate intellectual disability but are exhibiting signs of acute mental illness may be admitted to a state hospital if they meet the preceding criteria for admission due to their mental illness and have a primary need for mental health services. Once these psychiatric symptoms subside, the person must be reassessed according to AAIDD criteria and must be discharged to an appropriate setting.
4. Individuals with a mental health disorder who are also diagnosed with a co-occurring substance use disorder may be admitted to a state hospital if they meet the preceding criteria for admission.
5. For a forensic admission to a state hospital, an individual must meet the criteria for admission to a state hospital.

B. Training Centers

1. Admission to a training center for a person with intellectual disability will occur only when all of the following circumstances exist.
   a. The training center is the least restrictive and most appropriate available placement to meet the individual's treatment and training needs.
   b. Programs in the community cannot provide the necessary adequate supports and services required by an individual as determined by the CSB, pursuant to § 37.2-505 or § 37.2-606 of the Code of Virginia.
   c. It has been documented in the person's plan of care that the individual and his or her parents or authorized representative have selected ICF/MR services after being offered a choice between ICF/MR and community MR waiver services and that they agree with placement at a training center.
   d. The training center director approves the admission to the training center, with the decision of the director being in compliance with State Board regulations that establish the procedure and standards for issuance of such approval, pursuant to § 37.2-806 of the Code of Virginia.
   e. Documentation is present that the individual meets the AAIDD definition of intellectual disability and level 6 or 7 of the ICF/MR Level of Care.
   f. The individual demonstrates a need for extensive or pervasive supports and training to perform activities of daily living (ICF/MR Level of Care 6 or 7).
   g. The individual demonstrates one or more of the following conditions:
      - exhibits challenging behaviors (e.g., behavior patterns that may be manifested in self-injurious behavior, aggression toward others, or behaviors that pose public safety risks),
      - does not have a mental health diagnosis without also having an intellectual disability diagnosis, or
      - is medically fragile (e.g., has a chronic medical condition or requires specialized technological health care procedures or ongoing support to prevent adverse physical consequences).

2. After the training center director approves the admission, the CSB shall initiate the judicial certification process, pursuant to § 37.2-806 of the Code of Virginia.
3. Admission to a training center is not appropriate for obtaining:
   a. extensive medical services required to treat an unstable medical condition,
   b. evaluation and program development services, or
   c. treatment of medical or behavioral problems that can be addressed in the community system of care.
4. Special Circumstances for Respite Care or Emergency Admissions
   a. Requests for respite care admissions to training centers must meet the criteria for admission to a training center and the regulations adopted by the State Board. The admission must be based on the need for a temporary placement and will not exceed statutory time limits (21 consecutive days or a maximum of 75 days in a calendar year) set forth in § 37.2-807 of the Code of Virginia.
   b. Emergency admissions to training centers must meet the criteria for admission to a training center and must:
      - be based on specific, current circumstances that threaten the individual's health or safety (e.g., unexpected absence or loss of the person's caretaker),
      - require that alternate care arrangements be made immediately to protect the individual, and
      - not exceed statutory time limits (21 consecutive days or a maximum of 75 days in a calendar year) set forth in § 37.2-807 of the Code of Virginia.
   c. No person shall be admitted to a training center for a respite admission or an emergency admission unless the CSB responsible for the person's care, normally the case management CSB, has agreed in writing to begin serving the person on the day he or she is discharged from the training center, if that is less than 21 days after his or her admission, or no later than 21 days after his or her admission.

II. Preadmission Screening Services and Assessments Required Prior to State Facility Admission

A. CSB Preadmission Screening Requirements

1. CSBs will perform preadmission screening assessments on all individuals for whom admission, or readmission if the person is already in the hospital, to a state hospital is sought. A qualified CSB employee or designee shall conduct a comprehensive face-to-face evaluation of each individual who is being screened for admission to a state hospital. All CSB preadmission screeners for admission to state hospitals shall meet the qualifications for preadmission screeners as required in § 37.2-809 of the Code of Virginia. The preadmission screener shall forward a completed DBHDS MH Preadmission Screening Form to the receiving state hospital before the individual's arrival.
2. CSBs should ensure that employees or designees who perform preadmission screenings to a state hospital have expertise in the diagnosis and treatment of mental illnesses and consult, as appropriate, with professionals who have expertise in working with and evaluating persons with intellectual disability or substance use disorders or children and adolescents with serious emotional disturbance.
3. CSBs should ensure that employees or designees who perform preadmission screenings for admission to a training center have expertise in the diagnosis and treatment of persons with intellectual disability and consult, as appropriate, with

professionals who have expertise in working with and evaluating individuals with mental health or substance use disorders.

4. Results of the CSB's comprehensive face-to-face evaluation of each individual who is being screened for admission to a state facility should be forwarded to the receiving state facility for its review before the person's arrival at the facility. This evaluation should include the CSB assessments listed in the following section.
5. When an individual who has not been screened for admission by a CSB arrives at a state facility, he should be screened in accordance with procedures negotiated by the state facility and the CSBs that it serves. State facility staff will not perform preadmission screening assessments.
6. Preadmission screening CSBs must notify the state hospital immediately in cases in which the CSB preadmission screener did not recommend admission but the individual has been judicially admitted to the state hospital.
7. The case management CSB or its designee shall conduct preadmission screening assessments for the readmission of any individuals it serves in a state hospital.

B. **Assessments Required Prior to Admission to a State Hospital**: Section 37.2-815 of the Code of Virginia requires an examination, which consists of items 1 and 2 below and is conducted by an independent examiner, of the person who is the subject of a civil commitment hearing. The same Code section permits CSB staff, with certain limitations, to perform these examinations. The same items are required for a voluntary admission, but they do not have to be performed by an examiner referenced in § 37.2-815.

1. If there is reason to suspect the presence of a substance use disorder and available information is not adequate to make a determination of its existence, a substance use disorder screening, including completion of:
   a. a comprehensive drug screen including blood alcohol concentration (BAC), with the individual's consent, and
   b. the Substance Abuse Subtle Screening Inventory (SASSI) or Simple Screening Instrument (SSI) for adults or the adolescent version of SASSI for adolescents age 12 and older. The SASSI will not be required for youth under age 12.
2. A clinical assessment that includes:
   a. a face-to-face interview or one conducted via two-way electronic video and audio communication system, including arrangements for translation or interpreter services for individuals when necessary;
   b. clinical assessment information, as available, including documentation of:
      - a mental status examination, including the presence of a mental illness and a differential diagnosis of an intellectual disability,
      - determination of current use of psychotropic and other medications, including dosing requirements,
      - a medical and psychiatric history,
      - a substance use, dependence, or abuse determination, and
      - a determination of the likelihood that, as a result of mental illness, the person will, in the near future, suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs;
   c. a risk assessment that includes an evaluation of the likelihood that, as a result of mental illness, the person will, in the near future, cause serious physical harm to

himself of others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any;

d. an assessment of the person's capacity to consent to treatment, including his ability to:
   - maintain and communicate choice,
   - understand relevant information, and
   - comprehend the situation and its consequences;

e. a review of the temporary detention facility's records for the person, including the treating physician's evaluation, any collateral information, reports of any laboratory or toxicology tests conducted, and all admission forms and nurses' notes ;

f. a discussion of treatment preferences expressed by the person or contained in a document provided by the person in support of recovery;

g. an assessment of alternatives to involuntary inpatient treatment; and

h. recommendations for the placement, care, and treatment of the person.

3. To the extent practicable, a medical assessment performed by an available medical professional (i.e., an M.D. or a nurse practitioner) at, for example, the CSB or an emergency room. Elements of a medical assessment include a physical examination and a medical screening of:

   a. known medical diseases or other disabilities;

   b. previous psychiatric and medical hospitalizations;

   c. medications;

   d. current use of alcohol and illicit drugs, using blood alcohol concentrations and the results of the comprehensive drug screen; and

   e. physical symptoms that may suggest a medical problem.

4. If there is reason to suspect the presence of intellectual disability, to the extent practicable, a psychological assessment that reflects the person's current level of functioning based on the current AAIDD criteria should be performed if a recent psychological assessment is not already available to the preadmission screener.

5. When a state hospital accepts a direct admission, the Medical Officer on Duty should be contacted prior to admission to determine which of these assessments are needed. The state hospital shall communicate the results its decision in writing to the Board within four hours.

C. CSB Assessments Required Prior to Admission to a Training Center

1. For certified admission to a training center, a completed preadmission screening report that shall include the following information:

   a. A completed preadmission screening report, which shall include at a minimum:

      i. an application for services;

      ii. a medical history indicating the presence of any current medical problems as well as the presence of any known communicable disease. In all cases, the application shall include any currently prescribed medications as well as any known medication allergies;

      iii. a social history and current housing or living arrangements; and

      iv. a psychological evaluation that reflects the individual's current functioning.

b. The preadmission screening report shall include the following information, as appropriate:

   i. a current individualized education plan for school-aged individuals,

   ii. a vocational assessment for adults,

   iii. a completed discharge plan outlining the services to be provided upon discharge and anticipated data of discharge, and

   iv. a statement from the individual, family member, or authorized representative requesting services in the training center.

c. If there is reason to suspect the presence of a substance use disorder (e.g., current or past substance dependence or addiction) and available information is not adequate to make a determination of its existence, a substance use disorder screening, including completion of:

   i. a comprehensive drug screen including blood alcohol concentration (BAC), with the individual's consent, and

   ii. the Substance Abuse Subtle Screening Inventory (SASSI) or Simple Screening Instrument (SSI) for adults or the adolescent version of SASSI for adolescents age 12 and older. The SASSI will not be required for youth under age 12.

d. When indicated, an assessment of the individual's mental status to determine the presence of a co-occurring mental illness. This mental status assessment should include:

   i. a face-to-face interview, including arrangements for translation or interpreter services for individuals;

   ii. clinical assessment information, as available, including documentation of the following:

      - a mental status examination,
      - current psychotropic and other medications, including dosing requirements,
      - medical and psychiatric history,
      - substance use or abuse,
      - information and recommendations of other current service providers (e.g., treating physicians) and appropriate significant persons (e.g., spouse, parents), and
      - ability to care for self; and

   iii. assessment of capacity to consent to treatment, including an evaluation of such processes as the ability to:

      - maintain and communicate choice,
      - understand relevant information, and
      - understand the situation and its consequences.

2. For respite admissions to a training center, information requirements for the admission package are limited, but must include:

   a. an application for services;

   b. a medical history indicating the presence of any current medical problems as well as the presence of any known communicable disease. In all cases, the application shall include any currently prescribed medications as well as any known medication allergies;

c. a social history and current status;

d. a psychological evaluation that reflects the individual's current functioning.

e. a current individualized education plan for school-aged individuals unless the training center director or designee determines that sufficient information as to the individual's abilities and needs is included in other reports received;

f. a vocational assessment for adults unless the training center director or designee determines that sufficient information as to the individual's abilities and needs is included in other reports received;

g. a statement from the Board that respite care is not available in the community for the individual;

h. a statement from the Board that the appropriate arrangements are being made to return the individual to the Board within the time frame required under the regulations for respite admissions to training centers; and

i. a statement from the individual, family member, or authorized representative specifically requesting services in the training center.

3. For emergency admissions to a training center, information required for a respite admission is required; however, if the information is not available, this requirement may be waived temporarily only if arrangements have been made for receipt of the required information within 48 hours of the emergency admission.

D. Disposition of Individuals with Acute or Unstable Medical Conditions

1. Individuals who are experiencing acute or unstable medical conditions will not receive medical clearance for admission to a state hospital or training center. Examples of these conditions include: untreated acute medical conditions requiring surgery or other immediate treatment, acute pneumonia, respiratory distress, acute renal failure or chronic renal failure requiring dialysis, unstable diabetes, symptoms of alcohol or drug toxicity, and erratic consciousness of unknown origin.

2. CSBs should have procedures in place to divert individuals who do not meet state facility admission criteria due to with medical conditions to appropriate medical facilities.

E. Procedures for Dealing with Inappropriate Judicial Admissions to State Facilities

1. The individual's case management CSB shall immediately formulate and implement a discharge plan, as required by § 37.2-505 or § 37.2-606 of the Code of Virginia, if a state hospital determines that an individual who has been judicially admitted to the hospital is inappropriate for admission (e.g., the person does not meet the admission criteria listed in these procedures).

2. CSBs will be notified of the numbers of their admissions that state hospitals have determined do not meet the admission criteria in these procedures. State hospitals will report this information to the Department and the affected CSBs at least quarterly in a format prescribed by the Department. This information will be discussed during the bi-monthly utilization review and utilization management process developed and implemented by CSBs and state hospitals, which is described in the next section. This will include inappropriate jail transfers for evaluation and treatment.

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III. CSB Participation on Interdisciplinary Treatment Teams and Coordination with State Facility in Service Planning

Refer to the current applicable *Discharge Protocols* for other CSB requirements related to participation in treatment planning while the individual is in the state facility.

A. Staff of the case management CSBs shall participate in readmission hearings at state hospitals by attending the hearings or participating in teleconferences or video conferences. State hospital staff will not represent CSBs at readmission hearings.

B. CSBs and state facilities shall develop and implement a bi-monthly utilization review and utilization management process to discuss and address issues related to the CSB's utilization of state facility services. This includes reviewing the status and lengths of stay of individuals served by the CSB and developing and implementing actions to address census management issues.

IV. CSB Discharge Planning Responsibilities

Refer to the current applicable *Discharge Protocols* for other CSB requirements related to discharge planning responsibilities.

A. State facilities shall provide or arrange transportation, to the extent practicable, for individuals for discharge-related activities. Transportation includes travel from state facilities to community settings for trial visits and back to state facilities after such visits. The case management CSB shall provide or arrange transportation, to the extent practicable, for an individual whose admission to a state facility has been determined to be inappropriate, resulting in the person's discharge in accordance with § 37.2-837, § 37.2-505, § 37.2-606, or § 16.1-346.B of the Code of Virginia, and shall provide or arrange transportation for individuals when they are discharged from state facilities.

V. Discharge Criteria and Resolution of Disagreements about an Individual's Readiness for Discharge

A. Each state facility and the CSBs that it serves will use the following discharge criteria.

1. ***State Hospitals***

a. **Adults:** An adult will be discharged from a state hospital when hospitalization is no longer clinically appropriate. The interdisciplinary treatment team will use all of the following criteria to determine an individual's readiness for discharge:

1.) the individual has a mental illness but there is not a substantial likelihood that, as a result of mental illness, the person will, in the near future,

a.) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or

b.) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; and

2.) inpatient treatment goals, as documented in the person's individualized treatment plan, have been addressed sufficiently, and

3.) the individual is free from serious adverse reactions to or complications from medications and is medically stable.

b. **Children and Adolescents:** A child or an adolescent will be discharged from a state hospital when he or she no longer meets the criteria for inpatient care. The interdisciplinary treatment team will use the following criteria to determine an individual's readiness for discharge:

1.) the minor no longer presents a serious danger to self or others, and

2.) the minor is able to care for himself in a developmentally appropriate manner; and, in addition,

3.) the minor, if he is on psychotropic medication, is free from serious adverse effects or complications from the medications and is medically stable;

OR when any of the following apply:

4.) the minor is unlikely to benefit from further acute inpatient psychiatric treatment;

5.) the minor has stabilized to the extent that inpatient psychiatric treatment in a state hospital is no longer the least restrictive treatment intervention; or

6.) if the minor is a voluntary admission, the legal guardian or the minor, if he is age 14 or older, has withdrawn consent to admission (§ 16.1-338.D of the Code of Virginia), unless continued hospitalization is authorized under § 16.1-339, § 16.1-340, or § 16.1-345 of the Code of Virginia within 48 hours of the withdrawal of consent to admission.

2. ***Training Centers*:** Any individual is ready for discharge from a training center when the supports that are necessary to meet his or her needs are available in the community of his or her choice.

B. The state facility shall provide assessment information that is equivalent to the information specified in sections II.B. or II.C. (except for items B.3.a. and g. and C.3.a. and h.) of these procedures to the CSB when an individual is being considered for discharge to the community.

C. The CSB shall be notified when the state facility interdisciplinary treatment team determines that an individual admitted to a state facility does not meet the admission criteria in these procedures and needs to be discharged in accordance with § 37.2-837 and § 37.2-505 or § 37.2-606 of the Code of Virginia.

D. A disagreement as to whether an individual is ready for discharge from a state facility is solely a clinically-based disagreement between the state facility treatment team and the CSB that is responsible for the individual's care in the community. A dispute may occur when either:

1. the treatment team determines that the individual is clinically ready for discharge and the CSB disagrees; or
2. the CSB determines that an individual is clinically ready for discharge and the treatment team disagrees.

See the applicable Discharge Protocols for further guidance about resolving such disagreements.

VI. CSB Post-discharge Services

Refer to the current applicable *Discharge Protocols* for other CSB requirements related to post-discharge services responsibilities.

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A. Individuals discharged from a training center who have missed their first appointment with a CSB case manager or in a day support program shall be contacted by the case management CSB within 14 calendar days.

B. To reduce readmissions to training centers, CSBs shall, to the extent practicable, establish an developmental crisis stabilization/behavior management capability to work with individuals who have been discharged from a training center who are having difficulty adjusting to their new environments.

Community Services Board Administrative Requirements

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I. **Purpose:** The Community Services Board Administrative Requirements include or incorporate by reference ongoing statutory, regulatory, policy, and other requirements that are not expected to change frequently. The document is incorporated into and made a part of the current Community Services Performance Contract by reference and is available on the Department's web site at www.dbhds.virginia.gov/OCC-default.htm. Any substantive change in this document, except changes in statutory, regulatory, policy, or other requirements or in other documents incorporated by reference in it, which changes are made in accordance with processes or procedures associated with those statutes, regulations, policies, or other requirements or documents, shall be made in accordance with applicable provisions of the Partnership Agreement and shall be considered to be a performance contract amendment that requires a new contract signature page, signed by both parties. In this document, a community services board, local government department with a policy-advisory community services board, or behavioral health authority will be referred to as the Board or CSB.

II. Board Requirements

A. State Requirements

1. Financial Management Requirements, Policies, and Procedures

a. **Generally Accepted Accounting Principles:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government financial management requirements, policies, and procedures, the Board's financial management and accounting system shall operate and produce financial statements and reports in accordance with Generally Accepted Accounting Principles. It shall include necessary personnel and financial records and a fixed assets system. It must provide for the practice of fund accounting and adhere to cost accounting guidelines issued by the Department.

If it is an administrative policy board that is a city or county department or agency or is required to adhere to local government financial management requirements, policies, and procedures or it is a local government department with a policy-advisory board, the Board shall comply with local government financial management requirements, policies, and procedures.

If the Department receives any complaints about the Board's financial management operations, the Department will forward these complaints to the local government and any other appropriate authorities. In response to those complaints, the Department may conduct a review of that Board's financial management activities.

b. **Accounting:** Boards shall account for all service and administrative expenses accurately and submit timely reports to the Department to document these expenses. Boards shall comply with the Uniform Cost Report Manual issued by the Department, pursuant to § 37.2-508 or § 37.2-608 of the Code of Virginia, when submitting reports to the Department in accordance with requirements contained in the Community Services Performance Contract.

c. **Annual Independent Audit:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government financial management requirements, policies, and procedures, the Board shall obtain an independent annual audit conducted by certified public accountants. Audited financial statements shall be prepared in accordance with generally accepted accounting principles (GAAP). The appropriate GAAP basis financial reporting model is the Enterprise Fund in accordance with the requirements of Governmental Accounting Standards Board (GASB) Statement Number 34, *Basic Financial Statements- and Management's Discussion and Analysis- for State and Local Governments*. GASB 34 replaces the previous financial reporting model *Health Care Organizations Guide*, produced by the American Institute of Certified Public Accountants. Copies of the audit and the accompanying management letter shall be provided to the Office of Budget and Financial Reporting in the Department and to each local government that established the Board. Boards shall, to the extent practicable, obtain unqualified audit opinions. Deficiencies and exceptions noted in an audit or management letter shall be resolved or corrected within a reasonable period of time, mutually agreed upon by the Board and the Department.

If it is an administrative policy board that is a city or county department or agency or is required to adhere to local government financial management requirements, policies, and procedures or it is a local government department with a policy-advisory board, the Board shall be included in the annual audit of its local government. Copies of the applicable portions of the accompanying management letter shall be provided to the Office of Budget and Financial Reporting in the Department. Deficiencies and exceptions noted in a management letter shall be resolved or corrected within a reasonable period of time, mutually agreed upon by the Board, its local government(s), and the Department.

If an administrative policy board that is a city or county department or agency or is required to adhere to local government financial management requirements, policies, and procedures or a local government department with a policy-advisory board obtains a separate independent annual audit conducted by certified public accountants, audited financial statements shall be prepared in accordance with generally accepted accounting principles. The appropriate GAAP basis financial reporting model is the Enterprise Fund in accordance with the requirements of Governmental Accounting Standards Board (GASB) Statement Number 34, *Basic Financial Statements- and Management's Discussion and Analysis- for State and Local Governments*. GASB 34 replaces the previous financial reporting model *Health Care Organizations Guide*, produced by the American Institute of Certified Public Accountants. The local government will determine the appropriate fund classification in consultation with its certified public accountant. Copies of the audit and the accompanying management letter shall be provided to the Office of Budget and Financial Reporting and to each local government that established the Board.

Boards shall, to the extent practicable, obtain unqualified audit opinions. Deficiencies and exceptions noted in an audit or management letter shall be resolved or corrected within a reasonable period of time, mutually agreed upon by the Board and the Department.

d. **Federal Audit Requirements:** When the Department subgrants federal grants to a Board, all federal government audit requirements shall be satisfied.

e. **Subcontractor Audits:** Every Board shall obtain, review, and take any necessary actions on audits of any subcontractors that provide services that are procured under the Virginia Public Procurement Act and included in a Board's performance contract. The Board shall provide copies of these audits to the Office of Budget and Financial Reporting in the Department.

f. **Bonding:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government financial management requirements, policies, and procedures, Board employees with financial responsibilities shall be bonded in accordance with local financial management policies.

g. **Fiscal Policies and Procedures:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government financial management requirements, policies, and procedures, a Board's written fiscal policies and procedures shall conform to applicable State Board policies and Departmental policies and procedures.

h. **Financial Management Manual:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government financial management requirements, policies, and procedures, a Board shall be in material compliance with the requirements in the current Financial Management Standards for Community Services Manual issued by the Department.

i. **Local Government Approval:** Boards shall submit their performance contracts to the local governments in their service areas for review and approval, pursuant to § 37.2-508 or § 37.2-608 of the Code of Virginia, which requires approval of the contracts by September 30. Boards shall submit their contracts to the local governing bodies of the cities and counties that established them in accordance with the schedules determined by those governing bodies or at least 15 days before meetings at which the governing bodies are scheduled to consider approval of their contracts. Unless prohibited from doing so by its local government(s), a Board may submit its contract to the Department before it is approved by its local government(s).

j. **Department Review:** If a Board is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government financial management requirements, policies, and procedures, the Department may conduct a review of the Board's financial management activities at any time. While it does not conduct routine reviews of the Board's financial management activities, the Department may conduct a review in response to significant deficiencies, irregularities, or problems identified in the Board's independent annual audit or management letter or in response to complaints or information that it receives. Boards shall submit formal plans of correction to the Office of Budget and Financial Reporting in the Department within 45 days of receipt of official reports of reviews. Minor compliance issues shall be corrected within 45 days of submitting a plan. Action to correct

major compliance issues shall be initiated within 45 days and completed within 180 days of submitting a plan, unless the Department grants an extension.

If it is an administrative policy board that is a city or county department or agency or is required to adhere to local government financial management requirements, policies, and procedures or it is a local government department with a policy-advisory board, the Department may conduct a review of a Board's financial management activities at any time in order to fulfill its responsibilities for federal sub-recipient (Board) monitoring requirements under the Single Audit Act (OMB Circular A-133). While it does not conduct routine reviews of the Board's financial management activities, the Department may conduct a review in response to significant deficiencies, irregularities, or problems identified in the Board's audit or management letter or in response to complaints or information that it receives. Such reviews shall be limited to sub-recipient monitoring responsibilities in Subpart D.400 of the Single Audit Act associated with receipt of federal funds by the Board. Boards shall submit formal plans of correction to the Office of Budget and Financial Reporting in the Department within 45 days of receipt of official reports of reviews. Minor compliance issues shall be corrected within 45 days of submitting a plan. Action to correct major compliance issues shall be initiated within 45 days and completed within 180 days of submitting a plan, unless the Department grants an extension.

k. **Balances of Unspent Funds:** In calculating amounts of unspent state funds, the Department shall prorate balances of unexpended unrestricted funds after the close of the fiscal year among unrestricted state funds, local matching funds, and fee revenues, based on the relative proportions of those funds received by the Board. This normally will produce identified balances of unrestricted state funds, local matching funds, and fee revenues, rather than just balances of unrestricted state funds. Restricted state funds shall be accounted for separately, given their restricted status, and the Department shall identify balances of unexpended restricted state funds separately. Boards shall adhere to the Unspent Balances Principles and Procedures in Appendix C of these Requirements.

2. **Procurement Requirements, Policies, and Procedures**

a. **Procurement Policies and Procedures:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government procurement requirements, policies, and procedures, a Board shall have written procurement policies and procedures in effect that address internal procurement responsibilities, small purchases and dollar thresholds, ethics, and disposal of surplus property. Written procurement policies and procedures relating to vendors shall be in effect that address how to sell to the Board, procurement, default, and protests and appeals. All written policies and procedures shall conform to the Virginia Public Procurement Act.

If it is an administrative policy board that is a city or county department or agency or is required to adhere to local government procurement requirements, policies, and procedures or it is a local government department with a policy-advisory board, a Board shall comply with its local government's procurement requirements, policies, and procedures, which shall conform to the Virginia Public Procurement Act. If the Department receives any complaints about the Board's procurement operations, the Department will forward these complaints to the local government and any other appropriate authorities. In response to those complaints, the Department may conduct a review of that Board's procurement activities.

b. **Department Review:** If a Board is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government procurement requirements, policies, and procedures, the Department may conduct a review of the Board's procurement activities at any time. While it does not conduct routine reviews of the Board's procurement activities, the Department may conduct a review in response to significant deficiencies, irregularities, or problems identified in the Board's independent annual audit or management letter or in response to complaints or information that it receives. The review will include a sampling of Board subcontracts. Boards shall submit formal plans of correction to the Office of Administrative Services in the Department within 45 days of receipt of official reports of reviews. Minor compliance issues shall be corrected within 45 days of submitting a plan. Action to correct major compliance issues shall be initiated within 45 days and completed within 180 days of submitting a plan, unless the Department grants an extension.

3. **Reimbursement Requirements, Policies, and Procedures**

a. **Reimbursement System:** Each Board's reimbursement system shall comply with § 37.2-504, § 37.2-511, § 37.2-605, § 37.2-612, and § 20-61 of the Code of Virginia and State Board Policy 6002 (FIN) 86-14. Its operation must be described in organizational charts identifying all staff members, flow charts, and specific job descriptions for all personnel involved in the reimbursement system.

b. **Policies and Procedures:** Written fee collection policies and procedures shall be adequate to maximize revenues from individuals and responsible third party payors.

c. **Schedule of Charges:** A schedule of charges shall exist for all services that are included in the Performance Contract, shall be related reasonably to the cost of the services, and shall be applicable to all recipients of the services.

d. **Ability to Pay:** A method, approved by a Board's board of directors that complies with applicable state and federal regulations shall be used to evaluate the ability of each individual to pay fees for the services he or she receives.

e. **Department Review:** While it does not conduct routine reviews of the Board's reimbursement activities, the Department may conduct a review at any time in response to significant deficiencies, irregularities, or problems identified in the Board's independent annual audit or management letter or in response to complaints or information that it receives. Boards shall submit formal plans of correction to the Office of Cost Accounting and Reimbursement in the Department within 45 days of receipt of official reports of reviews. Minor compliance issues shall be corrected within 45 days of submitting a plan. Action to correct major compliance issues shall be initiated within 45 days and completed within 180 days of submitting a plan, unless the Department grants an extension.

f. **Medicaid and Medicare Regulations:** Boards shall comply with applicable federal and state Medicaid and Medicare regulations, policies, procedures, and provider agreements. Medicaid non-compliance issues identified by Department staff will be communicated to the Department of Medical Assistance Services.

4. **Human Resource Management Requirements, Policies, and Procedures**

a. **Statutory Requirements:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government human resource management requirements, policies, and procedures, a Board shall operate a human resource management program that complies with state and federal statutes, regulations, and

policies. When its executive director position becomes vacant, a Board shall provide to the Office of Community Contracting in the Department a current position description and salary range and the advertisement for the position for review, pursuant to § 37.2-504 or § 37.2-605 of the Code of Virginia. This review does not include Department approval of the selection or employment of a particular candidate for the position. In accordance with § 37.2-504 or § 37.2-605 of the Code of Virginia, if it is an operating board or a behavioral health authority, a Board shall employ its executive director under an annually renewable contract that contains performance objectives and evaluation criteria. A Board shall provide a copy of this employment contract to the Department upon request.

If it is an administrative policy board that is a city or county department or agency or is required to adhere to local government human resource management requirements, policies, and procedures or it is a local government department with a policy-advisory board, a Board shall be part of a human resource management program that complies with state and federal statutes, regulations, and policies. When its executive director position becomes vacant, a Board shall provide to the Office of Community Contracting in the Department a current position description and the advertisement for the position for review, pursuant to § 37.2-504 of the Code of Virginia. This review does not include Department approval of the selection or employment of a particular candidate for the position.

b. **Policies and Procedures:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government human resource management requirements, policies, and procedures, a Board's written human resource management policies and procedures shall include a classification plan and uniform employee pay plan and must address benefits, progressive discipline (standards of conduct), professional conduct, employee ethics, compliance with the state Human Rights Regulations and the Board's local human rights policies and procedures, conflicts of interest, employee performance evaluation, equal employment opportunity, employee grievances, hours of work, leave, outside employment, recruitment and selection, transfer and promotion, termination and layoff, travel, initial employee orientation, examinations, employee to executive director and board of directors contact protocol, and on-the-job expenses.

   If it is an administrative policy board that is a city or county department or agency or is required to adhere to local government human resource management requirements, policies, and procedures or it is a local government department with a policy-advisory board, a Board shall adhere to its local government's human resource management policies and procedures.

c. **Job Descriptions:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government human resource management requirements, policies, and procedures, a Board shall have written, up-to-date job descriptions for all positions. Job descriptions shall include identified essential functions, explicit responsibilities, and qualification statements, expressed in terms of knowledges, skills, and abilities as well as business necessity and bona fide occupational qualifications or requirements.

d. **Grievance Procedure:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government human resource management requirements, policies, and procedures, a Board's grievance procedure shall satisfy § 15.2-1506 or § 15.2-1507 of the Code of Virginia.

e. **Uniform Pay Plan:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government human resource management requirements, policies, and procedures, a Board shall adopt a uniform pay plan in accordance with § 15.2-1506 of the *Code* and the Equal Pay Act of 1963.

f. **Department Review:** If it is an operating board, a behavioral health authority, or an administrative policy board that is not a city or county department or agency or is not required to adhere to local government human resource management requirements, policies, and procedures, employee complaints regarding a Board's human resource management practices will be referred back to the Board for appropriate local remedies. The Department may conduct a human resource management review to ascertain a Board's compliance with performance contract requirements and assurances, based on complaints or other information received about a Board's human resource management practices. If a review is done and deficiencies are identified, a Board shall submit a formal plan of correction to the Office of Human Resource Management and Development in the Department within 45 days of receipt of an official report of a review. Minor compliance issues must be corrected within 45 days of submitting the plan. Action to correct major compliance issues shall be initiated within 45 days and completed within 180 days of submitting the plan, unless the Department grants an extension.

   If it is an administrative policy board that is a city or county department or agency or is required to adhere to local government human resource management requirements, policies, and procedures or it is a local government department with a policy-advisory board, employee complaints regarding a Board's human resource management practices will be referred back to the local government for appropriate local remedies. In response to complaints that it receives, the Department may conduct a review of the local government's human resource management practices at any time.

5. **Information Technology Capabilities and Requirements:** Boards shall meet the following requirements.

   a. **Hardware and Software Procurement:** Any hardware and software purchased by a Board with state or federal funds shall be capable of addressing requirements established by the Department, including communications, compatibility, and network protocols and the reporting requirements in the Performance Contract. Such procurements may be subject to review and approval by the Office of Information Technology Services in the Department.

   b. **Operating Systems:** Boards shall use or have access to operating systems that are compatible with or are able to communicate with the Department's network. A Board's computer network or system shall be capable of supporting and running the Department's Community Automated Reporting System (CARS) software and the current version of the Community Consumer Submission (CCS) extract software and should be capable of processing and reporting standardized aggregate and discrete data about individuals receiving services, services, and outcomes, provider performance measures, and revenues, expenditures, and costs based on documents and requirements listed in the Performance Contract.

   c. **Electronic Communication:** Boards shall ensure that their information systems communicate with those used by the Department and that this communication conforms to the security requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This communication shall provide file and data

exchange capabilities for automated routines and access to legally mandated systems via the TCP/IP networking protocol.

d. **Data Access:** Boards shall develop and implement or access automated systems that allow for output of fiscal, service, and individual data, taking into consideration the need for appropriate security and confidentiality. Output shall be in a format prescribed by the Department. In addition to regular reports, such data may be used to prepare ad hoc reports on individuals and services and to update Department files using this information. Boards shall ensure that their information systems meet all applicable state and federal confidentiality, privacy, and security requirements, particularly concerning the distribution of identifying information, diagnosis, service history, and service use and that their information systems are compliant with HIPAA.

III. Department Requirements

A. State Requirements

1. **Licensing Review Protocol for CARF-Accredited Board Outpatient and Day Support Services:** The Department and Boards with directly operated programs that are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) have agreed to the following provisions, pursuant to the Partnership Agreement and in accordance with applicable requirements of the Code of Virginia and associated regulations.

   a. The Department's Office of Licensing shall accept CARF surveys as a review of regulation compliance for those licensing regulations or standards that are the same for outpatient and day support services at Boards that have triennial licenses for these services. These regulations or standards are identified in the crosswalk between the licensing regulations and CARF standards that follows this section.

   b. The Office of Licensing shall accept the CARF review of compliance for the administrative, human resource, record management, and physical plant licensing regulations that also are covered by CARF regulations for outpatient and day support services.

   c. Boards that are accredited by the CARF shall provide the results of CARF surveys to the Office of Licensing. These results shall be public documents.

   d. The Office of Licensing shall conduct annual unannounced focused reviews as required by the Code of Virginia on specific areas of risk and on areas not covered by CARF standards, which may include emergency services, case management services, medication administration, review of incidents, or areas cited for deficiencies as a result of complaints or in previous surveys.

   e. The Office of Licensing shall continue to access the same documents, records, staff, and individuals receiving services that it needs to access to conduct inspections and complaint investigations.

   f. When practicable, the Office of Licensing shall issue triennial licenses to coincide with CARF accreditations.

   g. New services implemented by a Board shall not be subject to these provisions until they achieve triennial licensing status.

   h. The Office of Licensing shall conduct complaint investigations. Boards shall continue to report serious injuries to or deaths of individuals and allegations of abuse or neglect to the Department. The Offices of Licensing and Human Rights

shall review these reports to ensure that reporting continues as required by applicable provisions of the *Code of Virginia* and associated human rights and licensing regulations.

i. Should multiple or serious violations be identified as a result of an investigation or inspection or the Department reduces a license in one of these services, full inspections by the Office of Licensing of all licensing regulations shall resume.

Community Services Board Administrative Requirements

Crosswalk Between Licensing Regulations and 2010 CARF Standards		
No.	Department Licensing Standard	CARF Standard
	Ch. 105, Part III. Administrative Services	
140	License Availability	
150	Compliance with Laws, Regulations, and Policies	Sec. 1, E.1-2
160	Reviews by Department; Request for Information	Sec. 1, E.1
170	Corrective Action Plan	
180	Notification of Changes	
190	Operating Authority, Governing Body, and Organizational Structure	Sec. 1, A.1-3, A.5-6, A.8, A.10
200	Appointment of Administrator	Sec. 1, A.1
210	Fiscal Accountability	Sec. 1, C.1, F.1-7, F.9-11, M.3
220	Indemnity Coverage	Sec. 1, G.2
230	Written Fee Schedule	Sec. 1, F.8
240	Policy/Funds of Individuals Receiving Services	Sec. 1, F.12
250	Deceptive or False Advertising	Sec. 1, A.5
260	Building Inspection and Classification	Sec. 1, H.1, H.11-12
270	Building Modifications	
280	Physical Environment	Sec. 1, H.1
290	Food Service Inspections	Sec. 1, H.1, H.11
300	Sewer and Water Inspections	Sec. 1, H.1, H.11
310	Weapons	Sec. 1, H.20
320	Fire Inspections	Sec. 1, H.11, H.16
330	Beds	Sec. 3, U.4
340	Bedrooms	Sec. 3, U.4
350	Condition of Beds	
360	Privacy	Sec. 3, U.4
370	Ratios of Toilets, Basins, Showers or Baths	
380	Lighting	
390	Confidentiality and Security Personnel Records	Sec. 1, E.3-4
400	Criminal Registry Checks	Sec. 1, I.2
410	Job Description	Sec. 1, I.4-6
420	Qualifications of Employees or Contractors	Sec. 1, I.4-9
430	Employee or Contractor Personnel Records	Sec. 1, E.3-4; I.10
440	Orientation of New Employees, Contractors, Volunteers, and Students	Sec. 1, H.4, I.4-5, I.7, I.10-11
450	Employee Training & Development	Sec. 1, H.4, H.9, H.17, I.4-5, I.11-12
460	Emergency Medical or First Aid Training	Sec. 1, H.4
470	Notification of Policy Changes	Sec. 1, I.8
480	Employee or Contractor Performance Evaluation	Sec. 1, I.4, I.6, I.10
490	Written Grievance Policy	Sec. 1, I.8
500	Students and Volunteers	Sec. 1, I.7
510	Tuberculosis Screening	Sec. 1, H.9, I.2
520	Risk Management	Sec. 1, G.1-2, H.7-8, H.11-12
530	Emergency Preparedness and Response Plan	Sec. 1, H.2-8, H.13-14
540	Access to Telephone in Emergencies; Emergency Telephone Numbers	Sec. 1, H.5-6
550	First Aid Kit Accessible	Sec. 1, H.6
560	Operable Flashlights or Battery Lanterns	Sec. 1, H.5, H.17

Community Services Board Administrative Requirements

Crosswalk Between Licensing Regulations and 2010 CARF Standards		
	Ch. 105, Part IV. Services and Supports	
570	Mission Statement	Sec. 1, A.2-3
580	Service Description Requirements	Sec. 2, A.1-3, A.8
590	Provider Staffing Plan	Sec. 1, I.1, I.9; Sec. 2, A.5, A.12
600	Nutrition	Sec. 3, U.4
610	Community Participation	Sec. 2, A.9, A.13, A.19
620	Monitoring and Evaluating Service Quality	Sec. 1, N.1-2; Sec. 2, A.6, H.1-5
630	Policies on Screening, Admission, and Referrals	Sec. 2, B.1-4
640	Screening and Referral Services Documentation and Retention	Sec. 2, B.1-4
650	Assessment Policy	Sec. 2, B.6-11
660	Individualized Services Plan (ISP)	Sec. 2, C.1-7
670	ISP Requirements	Sec. 2, C.1-7
680	Progress Notes or Other Documentation	Sec. 2, C.8
690	Orientation	Sec. 2, B.5
700	Written Policies and Procedures for a Crisis or Clinical Emergency	Sec. 1, H.15; Sec. 2, A.7
710	Documenting Crisis Intervention and Clinical Emergency Services	Sec. 2, C.8
720	Health Care Policy	Sec. 2, B.8, E.5
730	Medical Information	Sec. 2, B.8, E.5
740	Physical Examination	Sec. 2, E.5
750	Emergency Medical Information	Sec. 2, B.8, E.5
760	Medical Equipment	
770	Medication Management	Sec. 2, E.1-10
780	Medication Errors and Drug Reactions	Sec. 1, H.7-8; Sec. 2, E.4-5, E.10
790	Medication Administration and Storage or Pharmacy Operation	Sec. 2, E.1-10
800	Policies and Procedures on Behavior Management Techniques	Sec. 2, F.1-15
810	Behavioral Treatment Plan	Sec. 1, K.6-7; Sec. 2, A.10; Sec.2, C.3-4
820	Prohibited Actions	Sec. 1, K.1-7
830	Seclusion, Restraint, and Time Out	Sec. 2, F.1-15
840	Requirements for Seclusion Room	Sec. 2, F.11
850	Transition of Individuals Among Services	Sec. 2, D.1-10
860	Discharge	Sec. 2, D.1-10
	Ch. 105, Part V. Records Management	
870	Written Records Management Policy	Sec. 2, G.1-5
880	Documentation Policy	Sec. 2, G.1-5
890	Individual's Service Record	Sec. 2, G.1-5
900	Record Storage and Security	Sec. 1, E.2-4
910	Retention of Individual's Service Records	Sec. 1, E.4
920	Review Process for Records	Sec. 2, H.1-5
	Ch. 105, Part VI. Additional Requirements for Selected Services	
930	Registration, Certification, or Accreditation	Opioid Treatment Manual
940	Criteria for Involuntary Termination from Treatment	Opioid Treatment Manual
950	Service Operation Schedule	Opioid Treatment Manual
960	Physical Examinations	Opioid Treatment Manual
970	Counseling Sessions	Opioid Treatment Manual

Community Services Board Administrative Requirements

980	Drug Screens	Opioid Treatment Manual
990	Take-Home Medication	Opioid Treatment Manual
1000	Preventing Duplication of Medication Services	Opioid Treatment Manual
1010	Guests	Opioid Treatment Manual
1020	Detoxification Prior to Involuntary Discharge	Opioid Treatment Manual
1030	Opioid Agonist Medication Renewal	Opioid Treatment Manual
1040	Emergency Preparedness Plan	Opioid Treatment Manual
1050	Security of Opioid Agonist Medication Supplies	Opioid Treatment Manual
1060	Cooperative Agreements with Community Agencies	Sec. 3, J.8
1070	Observation Area	Sec. 3, J.3
1080	Direct-Care Training for Providers of Detox. Services	Sec. 3, J.1, J.4
1090	Minimum No. of Employees or Contractors on Duty	Sec. 3, J.1, J.2, J.4, J.6
1100	Documentation	Sec. 3, J.5
1110	Admission Assessments	Sec. 3, J.1, J.3, J.5-6
1120	Vital Signs	Sec. 3, J.1, J.5
1130	Light Snacks and Fluids	
1140	Clinical and Security Coordination	
1150	Other Requirements for Correctional Facilities	
1160	Sponsored Residential Home Information	
1170	Sponsored Residential Home Agreements	
1180	Sponsor Qualification and Approval Process	
1190	Sponsored Residential Home Service Policies	
1200	Supervision	
1210	Sponsored Residential Home Service Records	
1220	Regulations Pertaining to Employees	
1230	Maximum Number of Beds in Sponsored Residential Home	
1240	Service Requirements for Providers of Case Management Services	Sec. 3, C.1-7
1250	Qualifications of Case Management Employees or Contractors	Sec. 3, C.2
1260	Admission Criteria	Sec. 2, A.1, A.3; B. 1-2
1270	Physical Environment Requirements of Community Gero-Psychiatric Residential Services	
1280	Monitoring	
1290	Service Requirements for Providers of Gero-Psychiatric Residential Services	
1300	Staffing Requirements for Providers of Gero-Psychiatric Residential Services	
1310	Interdisciplinary Services Planning Team	
1320	Employee or Contract Qualifications and Training	
1330	Medical Director	
1340	Physician Services and Medical Care	
1350	Pharmacy Services for Providers of Gero-Psychiatric Residential Services	
1360	Admission and Discharge Criteria	Sec. 2, A.1, A.3, B.1-2
1370	Treatment Team and Staffing Plan	Sec. 3, A.1-32
1380	Contacts	Sec. 3, A.10-27
1390	ICT and PACT Service Daily Operation and Progress Notes	Sec. 3, A.28-33
1400	ICT and PACT Assessment	Sec. 2, B.6-11; Sec. 3, A.10, A.19, A.28
1410	Service Requirements	Sec. 3, A.6-29, A.34

Appendix B: Federal Substance Abuse Prevention and Treatment Block Grant Requirements

Certification Regarding Environmental Tobacco Smoke: Substance Abuse Prevention and Treatment (SAPT) Block Grant and Community Mental Health Services Block Grant

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; Boards whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing a performance contract, a Board certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services to children as defined by the Act.

A Board agrees that it will require that the language of this certification be included in any subawards that contain provisions for children's services and that all subrecipients shall certify accordingly.

Special Federal Substance Abuse Prevention and Treatment Block Grant (CFDA 93.959) Compliance Requirements

Treatment services provided with federal Substance Abuse Prevention and Treatment Block Grant (SAPT) funds must satisfy federally mandated requirements. SAPT funds must be treated as the payer of last resort only for providing services to pregnant women and women with dependent children and TB and HIV services [Source: 45 CFR § 96.137]. Relevant requirements of the Substance Abuse Prevention and Treatment Block Grants; Interim Final Rule (45 CFR Part 96) are summarized below. As subgrantees of the Department, the Board and its subcontractors under this performance contract are responsible for compliance with these requirements. Failure to address these requirements may jeopardize all SAPT block grant funds awarded to the Board.

1. **Meet Set-Aside Requirements:** Federal law requires that the state expend its allocation to address established minimum set-asides. In order to address these set-asides, the Department shall designate its awards to the Board in specified categories, which may include:

   a. primary prevention,

   b. treatment services for substance use disorders, and

   c. services to pregnant women and women with dependent children.

   The Board must utilize these funds for the purposes for which they are indicated in the performance contract and the letter of notification. The Board must provide documentation in its semi-annual (2nd quarter) and annual (4th quarter) performance contract reports of expenditures of the set-asides to the Office of Substance Abuse Services and the Division of Finance and Administration in the Department to ensure that the state meets its set-aside requirements.

   [Sources: 45 CFR § 96.124 and 45 CFR § 96.128]

2. **Primary Prevention Services:** Federal law requires that funds designated for primary prevention services be directed at individuals not identified to be in need of treatment and that a variety of strategies be utilized, to include the following strategies.

   a. *Information Dissemination*: This strategy provides awareness and knowledge of the nature and extent of alcohol, tobacco, and drug use, abuse, and addiction and their effects on individuals, families, and communities. It also provides knowledge and awareness of available prevention programs and services. Information dissemination is characterized by one-way communication from the source to the audience, with limited contact between the two. Examples of activities conducted and methods used for this strategy include:

      1) clearinghouse and information resource center(s),
      2) resource directories,
      3) media campaigns,
      4) brochures,
      5) radio and TV public service announcements,
      6) speaking engagements,
      7) health fairs and health promotion, and
      8) information lines.

   b. *Education*: This strategy involves two-way communication and is distinguished from the information dissemination strategy by the fact that interaction between the educator or facilitator and the participants is the basis of its activities. Activities under this strategy aim to affect critical life and social skills, including decision-making, refusal skills, critical analysis (e.g. of media messages), and systematic judgment abilities. Examples of activities conducted and methods used for this strategy include:

      1) classroom and small group sessions (all ages),
      2) parenting and family management classes,
      3) peer leader and helper programs,
      4) education programs for youth groups, and
      5) children of substance abusers groups.

   c. *Alternatives*: This strategy provides for the participation of target populations in activities that exclude alcohol, tobacco, and other drug use. The assumption is that constructive and healthy activities offset the attraction to, or otherwise meet the needs usually filled by, alcohol, tobacco, and other drugs and would, therefore, minimize or obviate resort to the latter. Examples of activities conducted and methods used for this strategy include:

      1) drug free dances and parties,
      2) youth and adult leadership activities,
      3) community drop-in centers, and
      4) community-service activities.

   d. *Problem Identification and Referral*: This strategy aims at identification of those who have indulged in illegal or age-inappropriate use of tobacco or alcohol and those persons who have indulged in the first use of illicit drugs in order to assess if their behavior can be reversed through education. It should be noted, however, that this strategy does not include any activity designed to determine if a person is in need of treatment. Examples of activities conducted and methods used for this strategy include:

      1) employee assistance programs,
      2) student assistance programs, and
      3) driving while under the influence and driving while intoxicated programs.

   e. *Community-Based Process*: This strategy aims to enhance the ability of the community to provide prevention and treatment services for alcohol, tobacco, and drug abuse disorders more effectively. Activities in this strategy include organizing, planning, enhancing

efficiency and effectiveness of services implementation, inter-agency collaboration, coalition building, and networking. Examples of activities conducted and methods used for this strategy include:

1) community and volunteer training, e.g., neighborhood action training, training of key people in the system, staff and officials training;
2) systemic planning;
3) multi-agency coordination and collaboration;
4) accessing services and funding; and
5) community team-building.

f. *Environmental*: This strategy establishes or changes written and unwritten community standards, codes, and attitudes, thereby influencing the incidence and prevalence of the abuse of alcohol, tobacco, and other drugs used in the general population. This strategy is divided into two subcategories to permit distinction between activities that center on legal and regulatory initiatives and those that relate to the service and action-oriented initiatives. Examples of activities conducted and methods used for this strategy include:

1) promoting the establishment and review of alcohol, tobacco, and drug use policies in schools;
2) technical assistance to communities to maximize local enforcement procedures affecting the availability and distribution of alcohol, tobacco, and other drugs;
3) modifying alcohol and tobacco advertising practices; and
3) product pricing strategies.

[Source: 45 CFR § 96.125]

3. **Services to Pregnant Women and Women with Dependent Children, Including Women who are Attempting to Regain Custody of their Children, Except in Cases where Parental Rights have been Terminated:** Federal law requires that funds allocated to the Board under this set-aside must support, at a minimum, the following services, either directly or by a written memorandum of understanding:

a. primary medical care for women, including referral for prenatal care, and child care while such women are receiving this care;

b. primary pediatric care, including immunization for their children;

c. gender-specific substance abuse treatment and other therapeutic interventions for women that may address issues of relationships, sexual and physical abuse, and parenting and child care while the women are receiving these services;

d. therapeutic interventions for children in custody of women in treatment that may, among other things, address their developmental needs and their issues of sexual and physical abuse and neglect; and

e. sufficient case management and transportation to ensure that women and their children have access to services provided by paragraphs 2.a-d.

In addition to complying with the requirements described above, the Board shall:

a. treat the family as a unit and, therefore, admit both women and their children into treatment services, if appropriate [Source: 45 CFR § 96.124(e)];

b. report to the Department when it has insufficient capacity to provide treatment to the woman and make available interim services, including a referral for prenatal care, within 48 hours of the time the woman initially seeks services [Source: 45 CFR § 96.131]; and

c. publicize the availability and priority of treatment for pregnant women [Source: 45 CFR § 96.131].

4. **Preference in Admission:** The Board must give preference in admission to pregnant women who seek or are referred for and would benefit from SAPT Block Grant-funded treatment services. The Board must give admission preference to individuals in the following order:

   a. pregnant injecting drug users,

   b. other pregnant substance abusers,

   c. other injecting drug users, and

   d. all other individuals.

   [Source: 45 CFR § 96.128]

5. **Services for persons at risk of HIV/AIDS:** Virginia is no longer considered a designated state under these regulations and is no longer required to spend five percent of the federal SAPT Block Grant on HIV Early Intervention Services (EIS). Further, Virginia is prohibited from spending federal funds on HIV EIS. Consequently, neither the Department nor the Board may spend federal SAPT Block Grant funds for these services. However, if the Board has an HIV rate of 10 percent or more and wishes to continue its HIV EIS during the term of this contract, it may use state general or local funds that are available to it for this purpose. If the Board uses state general funds for HIV EIS, those funds will become restricted for that purpose, and the Board must meet the same requirements as the federal criteria for HIV EIS activities. In any event, the Board should determine if individuals are engaging in high risk behaviors for HIV infection and encourage them to contact their local health departments for HIV testing and preventative supplies.

6. **Interim Services:** Federal law requires that the Board, if it receives any Federal Block Grant funds for operating a program of treatment for substance addiction or abuse, either directly or through arrangements with other public or private non-profit organizations, routinely make available services for persons who have sought admission to a substance abuse treatment program yet, due to lack of capacity in the program, have not been admitted to the program. While awaiting admission to the program, these individuals must be provided, at a minimum, with certain interim services, including counseling and education about HIV and tuberculosis (TB). Interim services means services that are provided until an individual is admitted to a substance abuse treatment program. The purposes of such interim services are to reduce the adverse health effects of substance abuse, promote the health of the individual, and reduce the risk of transmission of disease.

   a. For pregnant women, interim services also include counseling about the effects of alcohol and drug abuse on the fetus and referral for prenatal care. [Source: 45 CFR § 96.121, Definitions]

   b. At a minimum, interim services must include the following:
      1) counseling and education about HIV and tuberculosis (TB),
      2) the risks of needle sharing, the risks of transmission to sexual partners and infants, and
      3) the steps that can be taken to ensure the HIV and TB transmission does not occur and include referral for HIV or TB treatment services, if necessary.

   [Source: 45 CFR §§ 96.121 and 96.126]

7. **Services for Individuals with Intravenous Drug Use:** If the Board offers a program that treats individuals for intravenous drug abuse, it must:

   a. provide notice to the Department within seven days when the program reaches 90 percent of capacity;

   b. admit each individual who requests and is in need of treatment for intravenous drug abuse not later than:
      1) 14 days after making the request, or

2) 120 days after making the request if the program
   - has no capacity to admit the person on the date of the request, and
   - within 48 hours of the request makes interim services as defined in 45 CFR § 96.126 available until the individual is admitted to the program;

c. maintain an active waiting list that includes a unique identifier for each injecting drug abuser seeking treatment, including individuals receiving interim services while awaiting admission;

d. have a mechanism in place that enables the program to:
   1) maintain contact with individuals awaiting admission, and
   2) admit or transfer individuals on the waiting list at the earliest possible time to an appropriate treatment program within a reasonable geographic area;

e. take individuals awaiting treatment off the waiting list only when one of the following conditions exists:
   1) such persons cannot be located for admission, or
   2) such persons refuse treatment; and

f. encourage individuals in need of treatment for intravenous drug use to undergo such treatment, using outreach methods that are scientifically sound and that can reasonably be expected to be effective; such outreach methods include:
   1) selecting, training, and supervising outreach workers;
   2) contacting, communicating, and following-up with high risk substance abusers, their associates, and neighborhood residents, within the constraints of federal and state confidentiality requirements, including 42 CFR Part 2;
   3) promoting awareness among injecting drug users about the relationship between injecting drug abuse and communicable diseases, such as HIV;
   4) recommending steps that can be taken to ensure that HIV transmission does not occur; and
   5) encouraging entry into treatment.

[Sources: 45 CFR §§ 96.121 and 96.126]

8. Tuberculosis (TB) Services:

a. Federal law requires that the Board, if it receives any Federal Block Grant funds for operating a program of treatment for substance addiction or abuse, either directly or through arrangements with other public or private non-profit organizations, routinely make available the following tuberculosis services to each individual receiving treatment for substance abuse [45 CFR § 96.121 (Definitions)]:
   1) counseling individuals with respect to tuberculosis,
   2) testing to determine whether the individual has been infected with mycobacteria tuberculosis to identify the appropriate form of treatment for the person, and
   3) providing for or referring the individuals infected with mycobacteria tuberculosis for appropriate medical evaluation and treatment.

b. The Board must follow the protocols established by the Department and the Department of Health and distributed by the Department of Health for screening for, detecting, and providing access to treatment for tuberculosis.

c. All individuals with active TB shall be reported to the appropriate state official (the Virginia Department of Health, Division of TB Control), as required by state law and in accordance with federal and state confidentiality requirements, including 42 CFR Part 2.

d. The Board shall:
   1) establish mechanisms to ensure that individuals receive such services, and
   2) refer individuals who are denied admission due to lack of service capacity to other providers of TB services.

Community Services Board Administrative Requirements

[Source: 45 CFR § 96.127]

9. **Other Requirements**

   a. The Board shall make available continuing education about treatment services and prevention activities to employees in SAPT Block Grant-funded treatment and prevention programs. The Board shall provide support to the greatest extent possible for at least 20 hours annually of prevention-specific training for prevention directors, managers, and staff. If the Board hires a new prevention director or manager, it agrees to support his or her participation in the 12-month prevention director mentorship program as space is available.

   b. The Board shall implement and maintain a system to protect individual services records maintained by SAPT Block Grant-funded services from inappropriate disclosures. This system shall comply with applicable federal and state laws and regulations, including 42 CFR, and provide for employee education about the confidentiality requirements and the fact that disciplinary action may be taken for inappropriate disclosures. [Source: 45 CFR § 96.132]

10. **Faith-Based Service Providers:** In awarding contracts for substance abuse treatment, prevention, or support services, the Board shall consider bids from faith-based organizations on the same competitive basis as bids from other non-profit organizations. Any contract with a faith-based organization shall stipulate compliance with the provisions of 42 CFR Parts 54 and 54a and 45 CFR Parts 96, 260, and 1050. Funding awarded through such contracts shall not be used for inherently religious activities, such as worship, religious instruction, or proselytizing. Such organizations are exempt from the requirements of Title VII of the Civil Rights Act regarding employment discrimination based on religion. However, such organizations are not exempt from other provisions of Title VII or from other statutory or regulatory prohibitions against employment discrimination based on disability or age. These organizations are subject to the same licensing and human rights regulations as other providers of substance abuse services. The Board shall be responsible for assuring that the faith-based organization complies with the provisions described in these sections. The Board shall provide individuals referred to services provided by a faith-based organization with notice of their right to services from an alternative provider. The Board shall notify the Office of Substance Abuse Services in the Department each time such a referral is required.

11. **Prevention Services Addressing Youth Tobacco Use and Underage Drinking:** The Board shall select and implement evidence-based programs and practices that target youth tobacco use and underage drinking, based on rates of youth tobacco and alcohol use that exceed state rates and age of first use that fall below state rates in the Board's service area. The Board shall integrate underage drinking, youth access, and smoking prevention strategies and education into prevention services as appropriate and report this integration through the KIT Prevention System.

    [Sources: 42 USC 300x-26 and 45 CFR § 96.130]

12. **Evidence-Based Programs:** The Board shall ensure that a minimum of 75 percent of all prevention programs and practices entered in the KIT Prevention System and supported wholly or in part by the SAPT Block Grant prevention set-aside are evidence-based or are included in a federal list or registry of evidence-based interventions. The Board shall replicate any evidence-based program as directed by that program's guidelines or as adapted in collaboration with that program's developer.

Appendix C: Unspent Balances Principles and Procedures

Unspent balances means amounts of unrestricted and restricted state general funds, hereafter referred to as state funds unless clarity requires more specificity, disbursed to CSBs pursuant to 790 Grants to Localities in the current Appropriation Act that remain unexpended after the end of the fiscal year in which they were disbursed by the Department.

Unspent Balances Principles and Procedures

1. **Applicability:** These principles and procedures apply equally to all CSBs. Implementation of some details of these principles and procedures may need to vary by type of CSB, but the overall framework should apply consistently. For example, given the administrative and financial relationships between some administrative policy CSBs or the local government department with an advisory CSB and their local governments, there may be a need to modify the application of some principles or procedures to accommodate those relationships. These principles and procedures shall apply to all unspent balances of state funds present in a CSB's accounts and reflected in its financial management system as of July 1, 2010.

2. **CSB Allocations of State Funds not Affected by Amounts of Unspent Balances:** Given provisions in State Board Policy 6005 and § 37.2-509 or § 37.2-611 of the Code of Virginia, the Department shall allocate funds in the Grants to Localities (790) item of the Appropriation Act without applying estimated year-end balances of unspent state funds to the next year's awards to CSBs.

3. **Calculation of Balances:** In order to calculate the correct amounts of unspent state fund balances, the Department shall continue to calculate unspent balances for all types of revenue sources, except for federal grants. Balances will be determined for restricted and unrestricted state funds, local matching funds, and fees, based on the end of the fiscal year Community Automated Reporting System (CARS) reports submitted by all CSBs no later than the deadline in Exhibit E of the Performance Contract for the preceding state fiscal year. The Department will continue to communicate information about individual balances to each CSB.

4. **Reserve Funds:** A CSB shall place all unspent balances of unrestricted and restricted state funds that it has accumulated from previous fiscal years in a separate reserve or contingency fund. The CSB shall use this reserve fund only for mental health, developmental, and substance abuse services purposes and as specified in these principles and procedures.

   In the case of a CSB reporting under the Governmental Health Care Enterprise accounting standards, unspent balances of unrestricted or restricted state funds would be deferred to the following fiscal year and not reported as income in the year from which the income was deferred. These deferrals would be reported as balances in CARS reports submitted by the CSB. Deferred state funds would continue to be deferred until spent for services in the performance contract or until the end of the biennium in which they were appropriated. When these balances are spent, they would be reflected as state retained earnings in the revised Performance Contract and end of the fiscal year CARS reports. However, balances of unexpended state funds must be reflected in the net assets part of the CSB's audit report.

   Reserve or contingency funds must not be established using current fiscal year funds, which are appropriated, granted, and disbursed for the provision of services in that fiscal year. This is particularly relevant for funds earmarked or restricted by funding sources such as the General Assembly, since these funds cannot be used for another purpose. Transferring current fiscal year state funds into a reserve or contingency fund or otherwise intentionally not expending them solely for the purpose of creating or increasing a reserve or contingency fund is a violation of the legislative intent of the Appropriation Act and is not acceptable.

Community Services Board Administrative Requirements

5. **Maintenance of Effort:** Pursuant to State Board Policy 6005 and based on the Appropriation Act prohibition against using state funds to supplant the funds provided by local governments for existing services, there should be no reduction of local matching funds as a result of a CSB's retention of any balances of unspent state funds.

6. **Size of Reserve Funds:** The maximum acceptable amount of unspent state fund balances that a CSB may accumulate in a reserve fund or otherwise is equal to the amount of all state funds received from the Department during the current fiscal year. If this amount of all state funds is less than a total amount of state funds received by the CSB during any one of the preceding five fiscal years, that larger amount shall constitute the acceptable maximum amount of unspent state fund balances that may be accumulated in a reserve account. If a CSB has accumulated more than this amount, it must expend enough of those reserve funds on allowable uses for mental health, developmental, or substance abuse services purposes to reduce the amount of accumulated state fund balances to less than the amount of all state funds received from the Department during the current fiscal year.

   In calculating the amount of acceptable accumulated state fund balances, amounts of long term capital obligations incurred by a CSB and long term liabilities (e.g., compensated absences) assumed by a CSB shall be excluded from the calculation. If a CSB has a plan approved by its board to reserve a portion of accumulated balances toward an identified future capital expense, the reserved amounts of state funds shall be excluded from the maximum acceptable amount of unspent state fund balances.

7. **Unspent Balances for Regional Programs:** While all unspent balances exist in CSB financial management systems, unspent balances for a regional program may be handled by the CSBs participating in the regional program as determined by them. All of the participating CSBs must review and approve how these balances are handled. Balances for regional programs may be prorated to each participating CSB for its own locally determined uses or allocated to a CSB or CSBs for regionally approved uses, or the CSB that functions as the regional program's fiscal agent may retain and expend the funds for purposes determined by all of the participating CSBs. Procedures for handling regional program balances of unspent funds should be included in the regional program memorandum of agreement for the program among the participating CSBs, and those procedures must be consistent with the principles and procedures in this Appendix and the applicable provisions of the current Community Services Performance Contract.

8. **Effective Period of Restrictions on State General Funds:** Allowable uses of state funds appropriated in the Grants to Localities item of the Appropriation Act for identified purposes (restricted funds) remain in effect for each fiscal year through the end of the biennium in which those restricted funds were originally appropriated. However, after the end of the fiscal year in which the restricted funds were disbursed to CSBs, any unexpended balances of these state funds are no longer restricted and would be considered unrestricted state funds.

9. **Use of Unexpended Restricted State Funds During the Current Fiscal Year:** The Department will not approve requests from CSBs to transfer unexpended restricted state funds during the current fiscal year to be used for another purpose. Restricted state funds must be used for the purposes for which they were appropriated in the biennium in which they were appropriated. Instead, a CSB should use unspent funds from prior fiscal years in its reserve fund if additional funds are needed for this other purpose.

10. **Allowable Uses of Unspent State Fund Balances:** Consistent with the intent of the Grants to Localities item in the Appropriation Act and § 37.2-500 or § 37.2-601 of the Code of Virginia, CSBs may use unspent balances of state funds only for mental health, developmental, and substance abuse services purposes. Any other uses of unspent state fund balances are not

acceptable and are a violation of the CSB's Community Services Performance Contract with the Department.

11. **Preferred Acceptable Uses of Accumulated Unspent State Fund Balances From Previous Fiscal Years:** CSBs may use unspent state fund balances from previous fiscal years for the following purposes:

    a. Purchase, construction, renovation, or replacement of land or buildings used to provide mental health, developmental, or substance abuse services;

    b. Purchase, replacement, or repair of vehicles used to transport individuals receiving services or to provide services (e.g., vehicles for case management or emergency services staff);

    c. Start up expenses for new programs, including security deposits for housing and utilities, advance rental payments, facility furnishings, supplies, prepaid expenses such as insurance premiums, and staff recruitment and training;

    d. Purchase, replacement, or repair of other capital equipment, including facility-related machinery, equipment, or furnishings;

    e. Initiation of Discharge Assistance Plans to enable individuals on state facility ready for discharge lists to be discharged to community settings while other support for the placements is being arranged;

    f. Purchase, replacement, or repair of information system equipment or software, including telecommunications equipment or software; and

    g. Purchase, construction, renovation, or replacement of land or buildings used for the CSB's management and administrative operations.

12. **Other Acceptable Uses of Accumulated Unspent State Fund Balances From Previous Fiscal Years:** Normally, unspent balances of state funds from previous fiscal years should be used only for one-time, non-recurring expenditures and not for supporting ongoing obligations. However, in exceptional circumstances, unspent balances may be used to temporarily absorb the short term effects of a budget reduction or an unanticipated revenue shortfall during the current fiscal year until more permanent actions are taken to implement the budget reduction or address the shortfall. Also, State Board Policy 6005 states that, if a CSB is certain that the source of balances of unspent state funds can be sustained in the future, for instance savings from a permanent reduction in staffing, then the balances could be used for ongoing obligations, although a preferable alternative would be a Performance Contract revision that moved the funds from the activity where they were not spent to the other ongoing use.

13. **Collective Uses of Unspent Balances:** A group of CSBs may pool amounts of their unspent balances to address one-time issues or needs that are addressed more effectively or efficiently on a collective basis. The use of these pooled unspent balances shall be consistent with the principles and procedures in this Appendix.

14. **Performance Contract Documentation:** All uses of unspent balances of state funds shall be documented in the CSB's original or revised Community Services Performance Contract for the year in which the unspent balances are expended. If the balances will be used to support operational costs, the funds shall be shown as State Retained Earnings revenue in the Performance Contract and in the CARS mid-year report, if the expense occurs in the first two quarters, and in the final Performance Contract revision and end of the fiscal year CARS report.

    If the balances will be used for major capital expenses, such as the purchase, construction, major renovation, or replacement of land or buildings used to provide mental health, developmental, or substance abuse services or the CSB's management and administrative operations or the purchase or replacement of information system equipment, these costs shall

not be shown as State Retained Earnings, but shall be described separately on the Financial Comments page (AF-2) of the Performance Contract and the CARS reports. Balances used for major capital expenses shall not be included as revenues on pages AF-2 or AF-3 through AF-8 or in the costs shown on Forms 11, 21, 31, or 01 of the Performance Contract or CARS reports because these expenses would distort the ongoing costs of the services in which the major capital expenses would be included.

In either case, for each separate use of unspent balances of state funds, the amount expended and the category (from those listed in sections 11 and 12) of the expenditure shall be shown on the Financial Comments page of the original Performance Contract, if the expenditure was planned at the beginning of the contract term, or the final contract revision and the end of the fiscal year CARS report. While the amount of unspent balances expended must be shown, CSBs do not have to list the specific sources of those balances, such as unrestricted state funds or particular restricted state funds. Uses of unspent balances of state funds shall be reviewed and approved by the Department in accordance with the principles and procedures in this Appendix and the Performance Contract Process in Exhibit E of the Community Services Performance Contract.

CSBs may maintain their accounting records on a cash or accrual basis for day-to-day accounting and financial management purposes; however its CARS reporting must be in compliance with Generally Accepted Accounting Principles (GAAP). CSBs may submit CARS reports to the Department on a cash or modified accrual basis, but they must report on a consistent basis; and the CARS reports must include all revenues contained in the Performance Contract that are received by the CSB during the reporting period.

15. **Review of Unspent Balances:** In exercising its stewardship responsibility to ensure the most effective, prudent, and accountable uses of state funds, the Department may review available unspent balances of state funds with a CSB that exhibits a persistent pattern of providing lower levels of services while generating significant balances of unspent state funds, and the Department may take actions authorized by State Board Policy 6005 to address this situation.

Martinsville
A CITY WITHOUT LIMITS

City Council Agenda Summary

Meeting Date: August 9, 2011
Item No: 4.
Department: Electric

Issue: Conduct a public hearing and consider re-approval of Power Sales Contract regarding American Municipal Power, Inc. Fremont Energy Center.

Summary:

Participation in the American Municipal Power Fremont Energy Center has been made available to the City of Martinsville by a majority vote of the Fremont Participants during the initial Participants Committee meeting held on July 22, 2011. City Council has an opportunity to re-visit its initial decision to participate in the Fremont Energy Center with the post closing knowledge that the plant is now owned by AMP as of July 28, 2011. Additionally the plant is fully subscribed and participant allocations have been set based on a pro-rata share of the plant output of 512 MW. Martinsville's pro-rata share, should City Council decide to participate, is 4579 kW or 4.579 MW.

Contained within your packets are Power Sales Contract comparisons for Municipal Participants and Central Virginia Electric Cooperative along with Contract Appendices comparisons. Staff also sought an independent legal review of these contracts along with a review of the AMP Fremont Resolution by AMP's bond counsel which are included. Please note that when reviewing comments on the Blue Ridge Power Association letter, page number references are for actual page numbers of the contract which are visible on the lower right hand corner of each page.

Attachments:
- Resolution
- Blue Ridge Power Association memo re: AMP Fremont
- Fred Ritts memo re: AMP Fremont
- Carter Glass memo re: AMP Fremont
- Certification from AMP
- AMP PSC comparisons Municipal participants & VA Electric Cooperative
- AMP contract Appendices comparisons

Recommendations: After conducting a Public Hearing, consider re-approval of a resolution authorizing the execution of the AMP Fremont Power Sales Contract. AMP also requests that the City Council rescind its June 28, 2011 instructions to the City Attorney to transmit the Power Sales Contract subject to the restriction that there be no differences in other participants' PSCs; this may be accomplished by separate motion.

PERTAINING TO AMP CONTRACT NO. _____

KENTUCKY, MICHIGAN, OHIO, VIRGINIA AND WEST VIRGINIA PARTICIPANTS ONLY

Martinsville
A CITY WITHOUT LIMITS

A RESOLUTION OF THE CITY COUNCIL

TO APPROVE THE FORM AND AUTHORIZE THE EXECUTION OF A POWER SALES CONTRACT WITH AMERICAN MUNICIPAL POWER, INC. AND TAKING OTHER ACTIONS IN CONNECTION THEREWITH REGARDING PARTICIPATION IN THE AMP FREMONT ENERGY CENTER

WHEREAS, the City of Martinsville, Virginia ("hereinafter Municipality") owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, in order to satisfy the electric power and energy requirements of its electric utility system, Municipality has heretofore purchased, or desires to purchase in the future, power and energy from, or arranged by, American Municipal Power, Inc. (hereinafter "AMP"), of which Municipality is a Member; and

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

WHEREAS, it is efficient and economical to act jointly in such regard; and

WHEREAS, AMP is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric power and energy, or any combination thereof, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of AMP members ("Members"), such Members, including Municipality, being, and to be, political subdivisions of their respective states that operate municipal electric utility systems in, as of the date of adoption hereof, Kentucky, Michigan, Ohio, Pennsylvania, Virginia and West Virginia; and

WHEREAS, each of the Members owns and operates its electric system for the benefit of its customers; and

WHEREAS, certain of the Members, including the Municipality, ("Participants") have determined they require additional, long-term sources of reliable intermediate electric capacity and energy at reasonable costs and have requested that AMP arrange for the same by developing or otherwise acquiring interests in certain intermediate generation facilities; and

WHEREAS, in furtherance of such purpose, AMP intends to finance, construct, operate and own up to a one hundred percent (100%), and in any case not less than an eighty percent (80%), undivided ownership interest, in the Fremont Energy Center having an expected net rated electric generating capacity of approximately six hundred seventy five (675 MW), consisting of 512 MW of base capacity and 163 MW of "duct-fired" peaking capacity , to be known collectively as the American Municipal Power Fremont Energy Center (as hereinafter defined, "AMP Fremont Energy Center"); and

WHEREAS, AMP has resolved, in accordance herewith, to develop, including, as appropriate, the financing, acquisition, construction, ownership and operation of, and arrangements for the acquisition, financing, payment and prepayment of fuel for, its ownership interest in the AMP Fremont Energy Center (the "Project") as well as other arrangements related thereto, which AMP and, in certain cases, the Participants, deem necessary to enable AMP to fulfill its obligations hereunder to sell and transmit, or otherwise make available, electric capacity and energy to the Participants pursuant to the Fremont Energy Center Power Sales Contract (hereinafter "PSC"); and

WHEREAS, in order to obtain such sources of electric capacity and energy, the Participants are willing to pay AMP for their respective rights to such electric capacity and energy and transmission service at rates that are sufficient, but only sufficient, to enable AMP to (i) recover all costs and expenses incurred with respect to, and arrangements for the acquisition, financing, payment and prepayment of fuel for, the Project as set forth herein, all other Power Sales Contract Resources obtained by AMP to supplement the Project, and related service arrangements undertaken by AMP to enable it to fulfill its obligations hereunder, and (ii) recover any other expenditures or revenues authorized hereunder.

WHEREAS, AMP has investigated both a self-build of a new natural gas combined cycle project as well as the acquisition of one of several existing natural gas combined cycle projects either operating or in various stages of construction; and

WHEREAS, because the expected in service date of the Fremont Energy Center is on or about January 1, 2012, certain Participants may need to have AMP rearrange their current power supply portfolio by selling certain already purchased power, principally for 2012 through 2015, into the market ("Buy-Out") and finance the cost of such transaction pursuant to the PSC.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARTINSVILLE, VIRGINIA:

SECTION 1. That the PSC between Municipality and AMP, substantially in the form on file with the City Clerk including Appendices thereto is approved, and the City Manager of Municipality is hereby authorized to execute and deliver such Power Sales Contract, with such changes as the City Manager may approve as neither inconsistent with this Resolution nor materially detrimental to the Municipality and report said changes to City Council, his or her execution of the PSC to be conclusive evidence of such approval.

SECTION 2. That the City Manager is hereby authorized to acquire on behalf of the Municipality, as a Participant, as defined in the PSC, Power Sales Contract Resources (hereinafter "PSCR Share"), as defined in the PSC, from AMP and to execute and deliver any and all documents necessary to become a Participant in the AMP Fremont Energy Center project pursuant to the conditions set forth herein and in the PSC and to carry out its obligations thereunder and to arrange for the Buy-Out of any excess power and energy currently under contract with AMP as the City Manager deems in the best interests of the Municipality.

SECTION 3. That it is further acknowledged and understood that because the Participants will finalize the precise PSCR Share to be acquired by each Participant electing to enter into the PSC after all such Participants execute and deliver the PSC, the City Manager in connection with the execution and delivery of the PSC, is authorized and directed to determine and acquire Municipality's PSCR Share (not taking into account the Step-Up as defined in the PSC), of up to a nominal amount of 5200 kilowatts, after consultation with AMP and the other Participants regarding the PSCR Share available pursuant to said PSC, such PSCR Share to be set forth in Appendix A of the PSC, such determination as to such PSCR Share being conclusively evidenced by the adoption of Appendix A to the PSC, as authorized therein.

SECTION 4. That the City Manager, as a part of such officer's official duties, is hereby appointed as Municipality's representative for any meetings or determinations of the Participants or the Participants Committee pursuant to the PSC and is authorized and directed, acting for, in the name of and on behalf of this Municipality, to vote Municipality's PSCR Share with regard to any determinations regarding the AMP Fremont Energy Center project as set forth in the PSC.

SECTION 5. That the City Manager may appoint, in writing from time to time as convenient or necessary, another appropriate representative of the Municipality as his or her alternate to carry out the duties set forth in Section 4 hereof.

SECTION 6. That it is found and determined that all formal actions of City Council concerning and relating to the passage of this Resolution were taken in conformance with applicable open meetings laws and that all deliberations of this Council and of any committees that resulted in those formal actions were in compliance with all legal requirements including any applicable open meetings requirements.

SECTION 7. If any section, subsection, paragraph, clause or provision or any part thereof of this Resolution shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Resolution shall be unaffected by such adjudication and all the remaining provisions of this Resolution shall remain in full force and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

SECTION 8. That this Resolution supersedes the Resolution that was adopted by the Council of the City of Martinsville on June 28, 2011, and that was titled "A Resolution of the City Council to Approve the Form and Authorize the Execution of a Power Sales Contract with American Municpal Power, Inc. and Taking Other Actions in Connection Therewith regarding Participation in the AMP Fremont Energy Center."

SECTION 9. That this Resolution shall take effect immediately.

Adopted in Martinsville, Virginia this 9th day of August, 2011.

* * * * * * *

Attest:

Clarence C. Monday ***Clerk of Council***	**Date Adopted**

BLUE RIDGE POWER AGENCY

"Providing Electric Energy to the Blue Ridge"

City of Bedford • City of Bristol • Town of Front Royal • City of Martinsville • City of Radford
Town of Richlands • City of Salem • Virginia Polytechnic Institute and State University • Central Virginia Electric Co-op

August 3, 2011

VIA FACSIMILE

MEMORANDUM TO: Clarence Monday, City Manager, City of Martinsville

FROM: Duane S. Dahlquist, General Manager

SUBJECT: Review of the AMP Fremont Energy Center ("Fremont") Power Sales Contract ("PSC") for Martinsville Compared to the Contract for Central Virginia Electric Cooperative

In response to your request, I offer my comments as to any notable differences in language between the Martinsville Fremont power sales contract as compared to that for CVEC. I would point out two significant differences between Martinsville and CVEC: Martinsville is both a municipality and a member of AMP while CVEC is a cooperative and not a member of AMP (it has most of the rights of a member by virtue of a contractual relationship). I would highlight the following comments regarding certain differences:

- General comments--there are several of what I would call changes in language to clarify or correct the language that was in the municipal participant PSCs and to reflect CVEC's structure and environment of being cooperative, under Virginia State Corporation Commission jurisdiction and its obligations and relationship to the Rural Utilities Service.

- CVEC paid its entire AMPGS sunk cost in cash last year as part of its efforts to forge an agreement with AMP on a share of the AMP Hydro Projects, so the "AMPGS Stranded Cost Financing Option" provisions/language was removed or referred to as being in the "**Other** Power Sales Contract."

- Page 10, line 16--the language has been modified to protect the AMP member participants from exposure to any excess cost of financing related to that required to satisfy AMP's financing for CVEC.

- Page 11, line 1--CVEC doesn't pay the "Developmental Costs" related to AMPGS because CVEC paid ALL of its share of the total AMPGS stranded cost, including that associated with the portion of the AMPGS stranded cost that makes up the Development Cost in the Fremont project. It does pay its share of Developmental costs from March 1 through June 30, 2011--See Appendix E

- Page 17, line7, PSCR Share--MAJOR point--CVEC's pro rata share of the plant output requested in the PSC in kW was reduced to the same percentage of the "up to" request in the PSC as Martinsville, 88 % (Martinsville's 5,200 kW prorated to 4,578 and CVEC's 24,100

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- prorated to 21,219). This, in addition to the equivalent sharing of cost of production of power, I think are the two most important contract provisions that must be, and are, equivalent.
- Page 22, lines 1, 2 and 14--CVEC has no access to tax-advantaged or tax-exempt financing through AMP and, per line 14, the trust indenture will reflect whatever financing structure is used for CVEC.
- Page 26, line 11--CVEC does have the ability in their PSC to become a co-owner of Fremont, but this does not have any affect on Martinsville's project benefits nor costs. Also, see Page 33, Section 3.(E). Also, see Page 104, Section 32.
- Section 5, RATES and CHARGES; METHODS OF PAYMENT, beginning on Page 40--MAJOR point, CVEC will pay the same cost of power from the Fremont Project plus pay for its own extra costs that may be related to its individual financing arrangements. References, in Section 5(K) to tax revenues, as well as the AMPGS Replacement and Buy-Out, etc. have been removed from the CVEC PSC since they are not applicable. Also, Appendix B, Rate Schedule, for CVEC is the same as that for Martinsville, except for the deletion of references to Buy-Out and AMPGS Costs, which is separate and not applicable to CVEC.
- Appendix H, Form of Legal Counsel Opinion--this is of necessity different given their being a cooperative utility/

In conclusion, it is my opinion that the differences in language between the Martinsville PSC and the CVEC PSC neither disadvantage Martinsville nor advantage CVEC in any material financial or other way.

DSD/ada

c: Dennis Bowles

BRICKFIELD BURCHETTE
RITTS & STONE, PC

WASHINGTON, D.C.
AUSTIN, TEXAS

August 3, 2011

Mr. Dennis Bowles, Director of Utilities
City of Martinsville
55 West Church Street
Martinsville, VA 24112

Dear Dennis:

The Martinsville City Administration has asked for a review of the AMP Fremont Energy Center ("Fremont Project") power sales contract to see if any other project Participants received a more favorable contract with AMP. The short answer is no—all the municipal utility Participants have the same contracts. The Central Virginia Electric Cooperative, Inc. (CVEC) contract is different since it is a rural electric cooperative. The major differences with the CVEC contract are as follows:

- Capacity cost. CVEC will pay more than the municipal Participants for capacity because its share of the Fremont plant will be financed by AMP-issued taxable bonds, which have a higher interest rate than tax exempt bonds.
- CVEC has the option to purchase its share of the Project and become a co-owner. This option allows CVEC to borrow money from the Rural Utilities Services (RUS) to do so. A loan from RUS will have a lower interest rate than taxable bonds.
- Martinsville's contract has a step-up provision if a participant is in default—Martinsville would "step up" to pay its share of the defaulting municipal Participant's debt service. CVEC's contract does not have the step-up obligation because tax exempt debt cannot be assigned to a non-tax exempt entity.
- CVEC's contract does not contain the right to borrow money to pay stranded costs for the cancelled AMPGS coal plant. CVEC has already paid its share in full.
- Contract provisions like Section 32, which applies only to the municipal Participants, have been deleted.
- The CVEC contract contains some standard language required by RUS. Those provisions have no effect on Martinsville.

In conclusion, the CVEC contract for the Fremont Project is not more favorable than Martinsville's contract. If you or City Administration members have any other questions, please do not hesitate to contact me.

Sincerely,

Frederick H. Ritts

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August 5, 2011

Mr. Clarence C. Monday
City Manager
City of Martinsville
P.O. Box 1112
Martinsville, VA 24112

Re: City of Martinsville/Power Sales Contract Regarding the American Municipal Power Fremont Energy Center

Dear Mr. Monday:

You have asked whether the form of the attached resolution will meet the requirements of American Municipal Power, Inc. ("AMP") for purposes of the action to be taken by the Martinsville City Council to authorize the execution and delivery of the Power Sales Contract regarding the American Municipal Power Fremont Energy Center, dated as of June 15, 2011 (the "Power Sales Contract"), and entered into by AMP, on the one hand, and Martinsville and other municipalities, on the other hand. You also asked whether the resolution will meet the requirements of the Virginia Public Finance Act.

For purposes of your request, we have reviewed the City's proposed resolution and communicated with John Bentine, the general counsel of AMP. Mr. Bentine has indicated that Martinsville's proposed resolution is the "standard resolution" used by other participants in the Fremont Energy Center and that the resolution is sufficient, in general, for Martinsville to enter into the Power Sales Contract. He added that no modifications need to be made to the resolution as a result of Martinsville's proposed approval of the Power Sales Contract following the date of the closing of the transaction involving a line of credit provided to AMP and following the approval of the Contract by the other participants.

Bentine did recommend, however, that the resolution be revised slightly to note that it supersedes the similar resolution that was adopted by City Council on June 28, 2011. The attached resolution contains such a paragraph. Also, he requests that the Council, by separate motion, rescind and revoke its June 14, 2011 action by which it directed the City Attorney to notify AMP that Martinsville's approval was based on a representation by AMP that all other participants were executing the same Power Sales Contract.

In conclusion, it is our opinion that the form of the attached resolution, as revised, will satisfy AMP's requirements and will be sufficient to authorize Martinsville to enter into a legally binding agreement with AMP, when combined with a motion to rescind and revoke the directive to the City Attorney made at the Council meeting on June 14, 2011. Furthermore, we are of the opinion that the attached resolution, as revised, and when duly approved by the City Council as reflected by a roll call vote after the holding of a properly-advertised public hearing, will satisfy the requirements of Virginia's Public Finance Act.

Sincerely yours,

Carter Glass IV

AMP
PUBLIC POWER PARTNERS

August 4, 2011

Clarence Monday
City Manager
Martinsville, Virginia

Re: AMP Fremont Energy Center

Dear Clarence:

This letter confirms that all AMP Member Participants executed the same Power Sales Contract ("PSC") for the Fremont Energy Center. Some members provided Appendix K disclosures, or had related agreements with their joint action agency, Michigan South Central Power Agency. Those did not change the PSC, their obligations, or rates, however, as you are aware, AMP has executed a similar PSC with Central Virginia Electric Cooperative ("CVEC") (which is not and cannot be an AMP Member) for the Project. The CVEC PSC is similar to the Member PSC, but has changes to reflect AMP's inability to issue tax exempt debt on CVEC's behalf and to reflect it has already paid a full share of AMPGS related stranded costs.

AMP has also entered into a term sheet to sell an undivided interest in the Project to the Michigan Public Power Association on economic terms that result in costs that AMP believes will be equal to AMP's Members. Copies of that term sheet and the CVEC Power Sales Agreement have been provided to your Counsel, Eric Monday, by our Counsel.

Should you have any further questions please contact me.

Very truly yours,

Pamala M. Sullivan
Senior Vice President, Marketing & Operations

cc: Marc Gerken, President
John Bentine, Chester, Willcox & Saxbe LLC

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American Municipal Power Inc.
1111 Schrock Road, Suite 100 • Columbus, OH 43229 • www.amppartners.org
Tel 614.540.1111 • Fax 614.540.1113

EXECUTION COPY

AMP CONTRACT NO.-_____

POWER SALES CONTRACT
REGARDING THE
AMERICAN MUNICIPAL POWER
FREMONT ENERGY CENTER

Between

AMERICAN MUNICIPAL POWER, INC.

And

~~EACH OF THE PARTICIPANTS LISTED ON THEATTACHED SCHEDULE OF PARTICIPANTS~~CENTRAL VIRGINIA ELECTRIC COOPERATIVE, INC.

~~INCLUDING THE~~

~~_____ OF _____, _____~~

Dated as of ~~June 15~~July 26, 2011

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POWER SALES CONTRACT
REGARDING THE
AMERICAN MUNICIPAL POWER
FREMONT ENERGY CENTER

Between
AMERICAN MUNICIPAL POWER, INC.
And
~~**EACH OF THE PARTICIPANTS LISTED ON THE**~~**CENTRAL VIRGINIA ELECTRIC COOPERATIVE, INC.**

~~**ATTACHED SCHEDULE OF PARTICIPANTS**~~

THIS POWER SALES CONTRACT regarding the American Municipal Power Fremont Energy Center (herein referred to as "Power Sales Contract" or "Contract"), dated as of ~~June 15~~July 26, 2011, is made and entered into between American Municipal Power, Inc. ("AMP") on the one hand, and ~~the entities listed on the Schedule of Participants attached hereto as Appendix A (the "Participants"), including the _____ of _____, _____ (the "Participant")~~Central Virginia Electric Cooperative, Inc. ("CVEC" or the "Participant"), a rural electric cooperative formed under Virginia law, on the other hand. (See Section 1 for Definitions used herein.) A similar power sales contract to this Contract has been entered into by certain

members of AMP, as shown on Appendix A hereto ("Other Participants" and collectively with CVEC "Participants").

WITNESSETH:

WHEREAS, AMP is an Ohio nonprofit corporation, organized to own and operate facilities, or to provide otherwise, for the generation, transmission or distribution of electric power and energy, or any combination thereof, and to furnish technical services on a cooperative, nonprofit basis, for the mutual benefit of its Members, such Members being, and to be, Political Subdivisions that operate Electric Systems in their respective states, which are as of June 1, 2011, Kentucky, Michigan, Ohio, Pennsylvania, Virginia and West Virginia; and

WHEREAS, each of the Participants owns and operates its Electric System for the benefit of its customers or members; and

WHEREAS, CVEC and each of the Other Participants, acting individually and, along with other Members, jointly through AMP, endeavors to arrange for reliable, reasonably priced supplies of electric capacity and energy for ultimate delivery to its customers; and

WHEREAS, it is efficient and economical to act jointly in such regard; and

WHEREAS, each of the Participants has determined that it requires additional, long-term sources of reliable, environmentally sound and reasonably priced electric capacity and energy and has requested that AMP arrange for the same; and

WHEREAS, AMP and FirstEnergy Generation Corp. ("FirstEnergy") have executed the Asset Purchase Agreement, as defined herein, for the purchase by AMP and the sale by

FirstEnergy of a two (2) unit, combined cycle natural gas-fired electric generating plant under construction in Sandusky County, Ohio (designated by AMP as the "AMP Fremont Energy Center"), which has an expected net rated electric generating capacity of not less than six hundred eighty-five megawatts (685 MW); and

WHEREAS, in furtherance of such purpose, each of the Participants requests that AMP, and AMP agrees and intends to, acquire and retain an ownership interest of up to one hundred percent (100%), and in any case not less than eighty percent (80%) in the AMP Fremont Energy Center and to finance, complete any remaining construction of, start-up, commission, and acquire and make other arrangements regarding Fuel for, and operate its undivided ownership interest in, the AMP Fremont Energy Center; and

WHEREAS, AMP has resolved, in accordance herewith, to undertake the financing, acquisition, completion of construction, operation of, and Fuel procurement for, its ownership interest in the AMP Fremont Energy Center as well as to make other arrangements related thereto, which AMP and, in certain cases, the Participants or the Participants Committee, deem necessary to enable AMP to fulfill its obligations hereunder to sell and transmit, or otherwise make available, electric capacity and energy to the Participants hereunder; and

WHEREAS, in order to obtain such sources of electric capacity and energy, the ~~Participants~~ are willing to pay AMP for their respective rights to such electric capacity and energy at rates that are sufficient, but only sufficient, to enable AMP to (i) recover all costs and expenses incurred with respect to the AMP Fremont Energy Center as set forth herein, all other Power Sales Contract Resources obtained by AMP to replace or supplement the output of the AMP Fremont Energy Center, and related service arrangements undertaken by AMP to enable it

to fulfill its obligations hereunder, and (ii) recover any other costs, expenditures or revenues authorized hereunder; and

WHEREAS, AMP and certain of the Participants and other Members (collectively, "AMPGS Participants") entered into a power sales contract dated November 1, 2007 (the "AMPGS Power Sales Contract") regarding the American Municipal Power Generating Station ("AMPGS"), a proposed one thousand megawatt (1,000 MW) coal-fired electric generation facility to have been constructed in Meigs County, Ohio; and

WHEREAS, in November 2009, in accordance with the AMPGS Power Sales Contract, the AMP Board of Trustees and the AMPGS Participants cancelled AMPGS as a coal-fired project; and

WHEREAS, at the direction of the AMPGS Participants, AMP (i) investigated the potential of converting AMPGS into a natural gas-fired combined cycle generating facility as a self-build project at the AMPGS Meigs County site and, as part of the AMPGS investigation and otherwise, the acquisition of one of several existing natural gas-fired combined cycle projects either in operation or in various stages of construction, and (ii) arranged AMPGS Replacement Power for the AMPGS Participants that desired to purchase such energy for periods ending in 2015; and

WHEREAS, AMP and the Participants have determined that, of the several available options to obtain natural gas-fired combined cycle capacity and associated energy, the purchase from FirstEnergy, completion and subsequent operation of the nearly complete AMP Fremont Energy Center is the best option for the Participants, including the AMPGS Participants; and

WHEREAS, because the expected in service date of the AMP Fremont Energy Center is on or about January 1, 2012, certain Participants, including those that are AMPGS Participants, may request that AMP rearrange their current power supply portfolio by selling certain already purchased power, principally for all or portions of 2012 through 2015, into the market ("Buy-Out") and finance the cost of such transactions pursuant to ~~this~~ the Other Power Sales Contract~~.~~; and

WHEREAS, AMP is also willing to undertake, at the request of those AMPGS Participants making such request, to finance pursuant to ~~this~~ the Other Power Sales Contract all or any portion of the AMPGS stranded costs for which such AMPGS Participants are responsible.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and among the Parties hereto as follows:

SECTION 1. Definitions and Explanations of Terms**.** As used herein:

AMP Entitlement shall mean that portion of AMP's ownership or undivided ownership interest in, and associated contractual rights to the available capacity of and energy from, the AMP Fremont Energy Center and any Replacement Power for such capacity and energy for sale to or for the benefit of the Participants. Unless the context otherwise requires, the AMP Entitlement does not include any undivided ownership interest (maximum twenty percent (20%)) subscribed for by AMP as contemplated by Section 34 and subject to potential assignment and sale in accordance with ~~Sections~~ Section 3 (D) and (E), and shall equal the sum of the total of all of the Participants' PSCR Shares of Base Capacity in kW, as shown in Appendix A.

AMP Fremont Energy Center shall mean a natural gas-fired combined cycle power generating plant located in the City of Fremont, Sandusky County, Ohio in the PJM transmission area. The plant has a total capacity of a nominal 512 MW (Summer) / 544 MW (Winter) (unfired), nominal 675 (Summer) / 707 MW (Winter) (fired), consisting of two Siemens Westinghouse 501FD2 combustion turbines (CTGs); 2 Nooter-Eriksen heat recovery steam generators (HRSGs) and 1 Siemens Westinghouse steam turbine (STG) and condenser, as further described in Appendix D, including the site and all related permits, licenses, easements and other real and personal property rights and interests, together with all additions, improvements, renewals and replacements to the electric generating facilities necessary to keep such facilities in good operating condition or to prevent a loss of revenues therefrom or as required by any governmental agency having jurisdiction. Appendix D shall be amended to reflect any additions to or changes in the AMP Fremont Energy Center, authorized or undertaken in accordance with this Power Sales Contract or the Asset Purchase Agreement.

AMPGS shall mean AMP's proposed 1,000 MW coal-fired plant that was to have been constructed in Meigs County, Ohio and that has now been cancelled as a coal-fired project by the AMPGS Participants and the AMP Board of Trustees.

AMPGS Participants shall mean those AMP Members that are so identified by their listing on Appendix A to the AMPGS Power Sales Contract. AMPGS Participants that are also Participants under ~~this~~ the Other Power Sales Contract are identified as such in Appendix A to this Power Sales Contract.

AMPGS Power Sales Contract or AMPGS PSC shall mean the Power Sales Contract dated November 1, 2007 among AMP and the eighty-one (81) Members that executed such contract respecting AMPGS.

AMPGS Replacement Power shall mean that energy purchased by AMPGS Participants pursuant to an AMPGS Replacement Power Schedule with AMP dated November 1, 2010.

Appendix shall mean any of the attachments to this Contract, as the same shall be modified, updated or replaced from time to time pursuant to the terms hereof, all of which are incorporated herein and made a part hereof.

Asset Purchase Agreement shall mean the agreement of that name dated March 11, 2011 for the purchase by AMP, and the sale by FirstEnergy~~–~~, of the AMP Fremont Energy Center, and any amendments or modifications thereto as permitted by the terms thereof, that is a Related Agreement hereto.

Available Capacity shall have the meaning set forth in subsection (A) of Section 6 hereof.

Base Capacity shall mean five hundred twelve ~~MW~~ megawatts (512 MW), the expected summer unfired rating of the AMP Fremont Energy Center, or such lesser amount of Base Capacity representing the AMP Entitlement, and is the basis upon which Participants' PSCR Shares in percent are determined.

Bonds shall mean revenue bonds, notes, bank loans, commercial paper or any other evidences of indebtedness, without regard to the term thereof, whether or not certificated, whether or not any issue thereof shall be subordinated as to payment to any other issue thereof, from time to time issued by AMP (including any legal successor thereto) to finance or refinance any cost, expense or liability paid or incurred or to be paid or incurred by AMP with respect to the AMP Entitlement in the Fremont Energy Center, including, without limitation, payment or prepayment for natural gas or natural gas pipeline capacity or storage, or the purchase of tangible or contractual natural gas reserves, in connection with the planning, investigating, engineering, permitting, licensing, financing, acquiring, construction and commissioning of any and all real or personal property, facilities, rights, licenses, permits that comprise the AMP Fremont Energy Center and the refurbishing, operating, maintaining, Fuel procurement, improving, repairing, replacing, retiring, decommissioning or disposing of the AMP Entitlement in the Fremont Energy Center or otherwise paid or incurred or to be paid or incurred by AMP in connection with the performance of its obligations under this Power Sales Contract or any Related Agreement. Bonds shall also include any financial or commodity hedge, swap instrument and the effect thereof, where the context is appropriate. For the avoidance of doubt, the term "Bonds" shall include AMP's obligations, certificated or not, for money borrowed on a temporary or interim basis pending the issuance of long-term Bonds issued for the permanent financing of the Project. Notwithstanding any other provision of this definition, until all loans,

interest and other obligations owing under that certain Loan Agreement, dated as of July 28, 2011, among AMP, the lenders from time to time party thereto, and JPMorgan Chase Bank, N.A., as administrative agent (as amended, restated, supplemented or otherwise modified from time to time) shall have been paid in full and such loan agreement shall have terminated, Bonds shall also include ~~(a) for the Participants that elect, and do not revoke such election, in accordance with subsection (K) (i) of Section 5 as evidenced on Part 1 of Appendix M to have AMP finance their Buy-Out costs, AMP indebtedness incurred for the Buy-Out of such AMPGS Participants; and (b) for the Participants that elect, and do not elect to revoke such election, in accordance with subsection (K) (ii) of Section 5, as evidenced on Part 2 of Appendix M to have AMP finance all or a portion of their allocable share of the stranded costs recoverable under the AMPGS PSC, AMP indebtedness incurred to finance such stranded costs~~all "Bonds" as defined in the Other Power Sales Contract.

Business Day shall mean a day other than a Saturday, Sunday or national or state holiday in any state in which a Participant is domiciled.

Buy-Out shall have the meaning set forth in subsection (K) of Section 5 ~~hereof~~of the Other Power Sales Contract.

Commercial Operation Date shall mean the earliest date, confirmed by a certificate by the Consulting Engineer or another qualified independent engineer selected by AMP, that the AMP Fremont Energy Center is determined to be (i) in service after physical completion and completion of all appropriate testing and (ii) available to AMP for all commercial operating purposes without material restrictions.

Consulting Engineer shall mean the consulting engineering firm or firms, experienced in electric utility matters, retained by AMP to provide reports or opinions on various aspects of the Project.

~~Contract or Power Sales~~ Contract shall ~~mean this~~ have the same meaning as Power Sales Contract ~~together with all Appendices, amendments and supplements hereto as permitted by the provisions hereof~~.

Contract Year shall mean the twelve Month period commencing 12:01 a.m. on January 1 of each year; provided, however, that the first Contract Year shall commence on the Effective Date and shall expire at 12:01 a.m. on the next succeeding January l, which is at least one (1) Month after the Effective Date.

Delivery Point see Point of Delivery.

Demand Charge shall mean the rate or charge to the Participants principally designed to recover fixed costs of the AMP Entitlement in the AMP Fremont Energy Center, including those items that (i) comprise Revenue Requirements as set forth in Section 5 hereof, and (ii)~~,~~ are included in the Rate Schedule and are not otherwise recovered through the Project Rate, adjusted for CVEC to reflect any difference in Bond related costs compared to such costs respecting the Other Participants.

Developmental Costs shall mean a *pro rata* portion of the development costs as set forth on Appendix E and incurred by AMP in furtherance of the planning, engineering, permitting, acquisition and related activities in connection with the AMP Fremont Energy Center, as well as

certain alternative natural gas combined cycle facilities ~~and a development fee to AMP, all~~ to be paid to AMP from the proceeds of its first issuance of Bonds.

Effective Date shall have the meaning set forth in Section 31 (A).

Electric System of a Participant shall mean the electric utility system owned and operated by the Participant including, without limitation, its contractual rights and obligations under this Contract.

Energy Charge shall mean the rate or charge to the Participants, principally designed to recover variable costs of the AMP Entitlement in the AMP Fremont Energy Center, including those items that (i) comprise Revenue Requirements as set forth in Section 5 hereof, and (ii)~~,~~ are included in the Rate Schedule and are not otherwise recovered hereunder.

Environmental Fund shall mean the sub-fund of the Reserve and Contingency Fund referred to in Section 5(A)(x) that may be used from time to time to mitigate AMP Fremont Energy Center environmental impacts or to moderate volatility in the costs of environmental compliance, including but not limited to the funding of reserves for, or the purchase and/or sale of, allowances or offsets from Participants, AMP or others.

FERC shall mean the Federal Energy Regulatory Commission and its successors.

Force Majeure shall mean any cause beyond the control of AMP or a Participant, including, but not limited to, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, pestilence, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority, which by due diligence and foresight AMP or such Participant, as the case may be, could not reasonably have been expected to avoid.

Fremont Energy Center shall mean the AMP Fremont Energy Center.

Fremont Project shall mean the Project.

Fuel shall mean natural gas, natural gas reserves, pipeline capacity, natural gas storage or related rights, contracts or assets, and any hedges or other financial devices to mitigate prices or risks of the same, as are necessary or convenient to operate the AMP Fremont Energy Center.

Fuel Subcommittee shall have the meaning and duties set forth in Section Seven of Article VI of the Regulations and subsection (A) (vi) of Section 4.

kW shall mean kilowatt.

kWh shall mean kilowatt hour.

Load Factor shall mean the Participant's energy scheduled from Power Sales Contract Resources over a time period in MWh, divided by Participant's PSCR Share in MW multiplied by the hours in the same time period.

Long Term shall mean periods greater than one (1) year.

Member shall mean any Political Subdivision that is a member of AMP.

MISO or MISO RTO shall mean the Midwest Independent Transmission System Operator RTO or its successor organization.

Month or Monthly shall mean or refer to a calendar month.

MW shall mean megawatt.

MWh shall mean megawatt hour.

O&M Expenses of ~~a~~ the Participant shall mean (i) the ordinary and usual operating expenses of its Electric System, including purchased power expense, and all amounts ~~(except amounts owed in respect to Bonds issued as contemplated by subsection K of Section 5)~~ payable by the Participant to or for the account of AMP under this Contract, including its obligations~~-~~, if any, for Step Up Power; and (ii) to the extent not included in (i), all other items included in operating expenses under generally accepted accounting principles as adopted by ~~the Governmental Accounting Standards Board or other~~ applicable authority; provided, however, that if any amount payable by the Participant under this Contract is prohibited by applicable law or by a contract existing on the Effective Date hereof from being paid as an O&M Expense of the Participant's Electric System, such amount shall be payable from any available funds of the Participant's Electric System and shall constitute an O&M Expense of the Participant's Electric System at such time as such law or contract shall permit or terminate.

Operating Agreement shall mean any agreement between AMP and any other joint owner of the AMP Fremont Energy Center for the ownership, operation, Fuel procurement and maintenance, including repairs and replacements, thereof or other operating protocols and cost allocations as approved by AMP and the Participants Committee between the AMP Entitlement and other ~~AMP~~ ownership of the AMP Fremont Energy Center.

~~as contemplated by Section 34 hereof.~~Other Participants shall mean all Participants except CVEC.

Other Power Sales Contract shall mean the similar agreement hereto entered into by AMP and the Other Participants.

PJM or PJM RTO shall mean the PJM Interconnection LLC RTO or its successor organization.

Participants shall mean those Member Political Subdivisions of the various states and, if approved by the AMP Board of Trustees, other municipal electric systems~~ or ~~, joint action agencies comprised of political subdivisions that operate electric systems~~-~~, and CVEC, listed on the Schedule of Participants attached to ~~this ~~the Power Sales ~~Contract ~~Contracts as Appendix A ~~including the Participant named in the Parties clause of this Contract ~~, and shall include, as the context requires, their officers, representatives and agents.

Participants Committee shall mean a committee of AMP's Board of Trustees consisting of Participants, including CVEC, the members of which, in the aggregate, have not less than a majority of the PSCR Shares, organized and operating in accordance with Appendix L.

Party with reference to this Contract shall mean AMP~~-~~, CVEC or as the context requires any Other Participant.

Peaking Capacity shall mean the nominal approximate one hundred sixty-three (163) MW (Summer) of capacity from the duct-firing capability of the AMP Fremont Energy Center or such lesser amount of Peaking Capacity representing the AMP Entitlement.

Point of Delivery shall mean, in the case of (i) capacity or energy from the AMP Entitlement in the AMP Fremont Energy Center, the point as set forth on Appendix C, at which AMP shall be required to deliver or make available capacity or energy to or for the benefit of each of the Participants pursuant to ~~this ~~its Power Sales Contract and (ii) Replacement Power, the point or points at which capacity or energy is received by or made available to AMP for

delivery to the Participants, and, in the case of (i) and (ii), at the Project Rate as set forth in such Power Sales Contract.

Political Subdivision shall mean a city, town, village, municipality, borough or other public entity that constitutes a political subdivision of a state, within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended and as the same may be modified or amended from time to time.

Power Cost Adjustment Factor shall have the meaning set forth in Section 5(D).

Power Sales Contract or Contract shall mean this Power Sales Contract and, to the extent the context requires, the Other Power Sales Contract, together with all Appendices, amendments and supplements hereto and thereto as permitted by the provisions hereof and thereof, collectively the Power Sales Contracts.

Power Sales Contract Resources or PSCR shall mean, to the extent acquired or utilized by AMP to meet its obligations to deliver electric capacity and energy to the Participants at the Point of Delivery pursuant to ~~this Contract~~ the Power Sales Contracts (i) the AMP Entitlement and (ii) all sources of Replacement Power, whether real or personal property or contract rights.

Project shall mean the acquisition, construction, equipping, testing and placing into service of AMP's undivided ownership interest in the AMP Fremont Energy Center and in any other assets acquired in connection therewith as provided hereunder, including but not limited to emission allowances and Fuel.

Project Costs shall mean that portion~~-~~, allocable to the AMP Entitlement~~-~~, of all costs incurred in connection with the planning, investigating, licensing, permitting, engineering,

financing, equipping, construction and acquisition of the Project including, without limitation, the costs of any necessary transmission facilities or upgrades required to interconnect the AMP Fremont Energy Center with the PJM RTO, MISO RTO or any other transmission provider and transmit or make available capacity and energy to the Participants, any payments or prepayments for acquisition of and arrangements for Fuel, any Developmental Costs, all permit or license costs, payments respecting interest during construction of the Project, initial inventories, including the purchase of any inventories of emission allowances or other environmental rights, working capital, spares and other start up related costs, related environmental compliance costs, legal, engineering, accounting, advisory and other financing costs relating thereto and the refurbishing, improving, repairing, replacement, retiring, decommissioning or disposing of the Project, or otherwise paid or incurred or to be paid or incurred by or on behalf of the Participants or AMP in connection with its performance of its obligations under this Contract, any Trust Indenture or any Related Agreement relating to the AMP Entitlement.

Project Feasibility Report shall mean the report, prepared by a Consulting Engineer and released in March of 2011, analyzing technical and economic aspects of the Project.

Project Rate means the total delivered charges to ~~Participants~~ CVEC for Demand Charges and Energy Charges, to the Point of Delivery, as specified in the Rate Schedule.

Prudent Utility Practice shall mean any of the practices, methods and acts which, in the exercise of reasonable judgment, in the light of the facts, including but not limited to the practices, methods and acts engaged in or approved by a significant portion of the United States electrical utility industry prior thereto, known at the time the decision was made, would have

been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. It is recognized that Prudent Utility Practice is not intended to be limited to the optimum practice, method or act at the exclusion of all others, but rather it is a spectrum of possible practices, methods or acts which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition.

PSCR – see Power Sales Contract Resources.

PSCR Share for any Participant expressed in kilowatts (kW) shall mean such Participant's nominal entitlement to Base Capacity and associated energy from the Power Sales Contract Resources such that the sum of all PSCR Shares (in kW) equals the AMP Entitlement to Base Capacity (in kW) in the AMP Fremont Energy Center, as shown in Appendix A, subject to adjustment as set forth herein. PSCR Share for any Participant expressed as a percentage (%), rounded to the nearest one-hundredth of one percent, shall mean the result derived by dividing such Participant's PSCR Share of Base Capacity in kW by the total of all of the Participants' PSCR Shares (including such Participant's PSCR Share) of Base Capacity in kW, as shown in Appendix A, subject to adjustment as set forth herein, such that the sum of all such PSCR shares expressed as a percentage (%) is at all times one hundred percent (100%). While the Participants' PSCR Shares in kW of the Base Capacity may change on account of the rerating of such Base Capacity, the Participants' PSCR Shares expressed in percentage (%) will not change on account of any rerating.

Rate Schedule(s) shall mean the schedule(s) of rates and charges attached hereto as Appendix B, as the same may be revised from time to time in accordance with the provisions of Section 5 hereof.

Rate Stabilization Fund shall mean the sub-fund of the Reserve and Contingency Fund referred to in Section 5 (A) (x) that may be used from time to time to moderate volatility of the Project Rate.

Regulations shall mean the bylaws for Participants and Participants Committee meetings and actions as set forth in Appendix L, as the same may be amended from time to time.

Related Agreements shall mean the Asset Purchase Agreement, the Other Power Sales Contract, any Operating Agreement, agreements for interconnection of the AMP Fremont Energy Center or other Power Sales Contract Resources to the appropriate transmission system and the PJM RTO or MISO RTO transmission systems, including, as set forth in Appendix F, any agreements with the City of Fremont, Ohio relating to the AMP Fremont Energy Center, any agreements for the purchase of Replacement Power, agreements for Supplemental Transmission Service to enable AMP to deliver or make available electric capacity and energy to the Participants at their respective Secondary Points of Delivery pursuant to ~~this Contract~~the Power Sales Contracts, any agreement entered into pursuant to Section 35 ~~hereof~~of the Power Sales Contracts, and all other Long Term agreements entered into by AMP for the acquisition of Fuel or Replacement Power, all as the same may be amended from time to time.

Replacement Power shall mean capacity and energy purchased or sold by AMP to be made available or for delivery on or after the Commercial Operation Date of the AMP Fremont Energy Center (i) to account for the difference between scheduled output of the Project's generation facilities and actual output of the Project's generation facilities; or (ii) to replace all or any portion of the Project's installed capacity through a PJM incremental reliability pricing model or RPM auction (or successor) or from a bilateral capacity purchase during periods in which one

or both of the generating units of the AMP Fremont Energy Center are expected, for any reason, to be derated or otherwise incapable of generating their full nominal capability; or (iii) when, with the approval of a Super Majority of the Participants, the purchase from or sale to the market of capacity or the entry into reserve sharing arrangements or like transactions, will lower the expected Project Rate or is consistent with Prudent Utility Practice.

Reserve and Contingency Fund shall have the meaning set forth in a Trust Indenture and refers to a special fund, including any sub-funds, established by AMP to accumulate funds sufficient to provide an immediately available source of funds for the extraordinary maintenance, repair, overhaul and replacement of the AMP Fremont Energy Center to mitigate environmental impacts, achieve environmental compliance or purchase allowances (Environmental Fund) to stabilize or mitigate rate volatility or rate increases to the Participants (Rate Stabilization Fund) and to meet other requirements of the Trust Indenture for which other funds are not, by the terms of the Trust Indenture, immediately available.

Revenue Requirements shall have the meaning assigned to such term in Section 5(A).

RTO shall mean any one of the regional transmission organizations approved by the FERC or its successors or assigns, the territory of which includes the transmission systems to which the Point of Delivery or any Secondary Point of Delivery is connected.

Schedule of Participants shall mean the Schedule of Participants attached hereto as Appendix A, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

Secondary Point(s) of Delivery shall mean the receipt point(s) for each Participant set forth on Appendix C hereto which is either (i) a metered point of interconnection with the transmission or distribution system of the Participant whose name is set forth opposite such Secondary Point(s) of Delivery on such Appendix C or (ii) any other metered point of interconnection designated by a Participant for ultimate delivery of, or for there to be made available, capacity and energy from the Point of Delivery to such Secondary Delivery Point(s) under this Contract; provided; however, that the Secondary Point(s) of Delivery with respect to any Participant may, with AMP's written approval (which approval shall not be unreasonably withheld), be changed by such Participant, in which event the Appendix C shall be modified by AMP to reflect any such change.

Section shall mean, unless the context shall otherwise indicate, a Section of this Contract.

Service Fee shall mean AMP's Service Fee B charge of up to one mill ($0.001) per kWh for all energy delivered hereunder to the respective Participants at the Point of Delivery under this Contract. As of March 1, 2011, said charge is $0.00038 per kWh. Said charge may be prospectively increased or decreased at the sole option of AMP's Board of Trustees at any time; provided, however, that except as provided hereunder, such fee shall not exceed one mill ($0.001) per kWh. Any such increases are limited, however, to an additional one-tenth of one mill ($0.0001) per kWh for energy delivered hereunder on and after January 1 of each year this Contract is in effect; provided, however, that (i) in the event AMP's Board of Trustees elects not to increase said charge in any such year, the charge may be increased in any following year by an additional one-tenth of one mill ($0.0001) per kWh for each year said charge was not

increased; and (ii) at the sole option of AMP's Board of Trustees, it may convert to, and replace the charge per kWh with, a system of charges based upon demand (in kW) and energy (in kWh), provided, however, that any such demand and energy charges may not operate to cause any Participant to incur Service Fees in excess of what would have been allowable under the "per kWh" method utilizing an assumed Load Factor of eighty-five percent (85%), regardless of the Participant's actual Load Factor. Service Fee B may be increased above $0.001 per kWh with the approval of both the AMP Board of Trustees and the Participants Committee.

Step Up Power shall have the meaning set forth in Section 18(B)(ii).

Step Up Power Costs shall mean that portion of Revenue Requirements that is allocable to a defaulting Participant's payment obligations ~~hereunder~~under the Other Power Sales Contract, except for any such payment obligations respecting such Participant's Buy-Out ~~or~~ of all or any portion of payment obligations respecting such Participant's allocable share of stranded costs recoverable under the AMPGS PSC and financed pursuant to Section 5(K)(ii) ~~hereof~~of the Other Power Sales Contract.

Super Majority shall mean a majority of not less than seventy-five percent (75%) of the weighted vote, based upon PSCR Shares, of all the Participants.

Supplemental Transmission Service shall mean the delivery service including congestion costs and other RTO charges, under any agreements, tariffs and rate schedules necessary or convenient to transmit or make available capacity and energy to or for the benefit of any Participant hereunder for delivery from the Point of Delivery to its Secondary Point(s) of Delivery.

~~Tax-Advantaged Obligations shall have the meaning set forth is Section 32.~~

~~Tax-Exempt Obligations shall have the meaning set forth in Section 32.~~

Transmission Service shall mean all transmission arrangements, together with all related or ancillary services rights and facilities, to the extent the same are necessary or prudent to provide for delivery of or to make available capacity and energy hereunder to the Point of Delivery.

Trust Indenture shall mean any one or more trust indentures, trust agreements, loan agreements, security agreements, pledge agreements, other collateral documents, resolutions or other similar instruments, documents or agreements providing for the issuance and securing of Bonds, in whatever form. For the avoidance of doubt, the term "Trust Indenture" shall include any Trust Indenture (in the form of a loan agreement or otherwise) intended for the issuance and securing of AMP's obligations, certificated or not, for money borrowed on a temporary or interim basis pending the issuance of long-term Bonds issued for the permanent financing of the Project~~. A~~ The draft of the form of the ~~initial~~ Trust Indenture ~~intended to secure Bonds issued for such permanent financing of the Project is~~ set forth in Appendix G was prepared for permanent financing contemplated by the Other Power Sales Contract. The Trust Indenture securing Bonds issued for permanent financing under this Power Sales Contract will vary as necessary or appropriate to reflect differences between CVEC and the Other Participants, lenders, and other circumstances.

Utility Governing Body shall mean, as to any Participant, the governing body of the Participant identified in paragraph 3 of the legal opinion, in substantially in the form of Appendix

H hereto, furnished to AMP by such Participant pursuant to Section 22 hereof upon its execution and delivery of this Contract.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, public and private corporations, and any other legal entities.

SECTION 2. Representations**.** (A) Unless otherwise noticed in writing to the Participants prior to the Effective Date, AMP represents to each Participant that, as of the Effective Date:

(i) AMP is a nonprofit corporation duly created and validly existing pursuant to the Constitution and statutes of the State of Ohio, and the Board of Trustees of AMP is responsible for the management of its affairs.

(ii) AMP has full legal right and authority to enter into this Power Sales Contract, to carry out its obligations hereunder and to sell electric capacity and energy to the Participants as provided herein.

(iii) AMP's Board of Trustees duly approved this Power Sales Contract and authorized the execution and delivery hereof, on behalf of AMP, by resolution or other action duly and lawfully adopted at a meeting duly called and held at which a quorum was present and acting throughout.

(iv) This Power Sales Contract has been duly authorized by AMP's Board of Trustees and has been executed and delivered by the appropriate officers of AMP, and, assuming the Participant has all the requisite power and authority to execute and deliver and has duly authorized, executed and delivered this Contract, this Contract, as between AMP and the Participant, constitutes a legal, valid and binding obligation of AMP enforceable in accordance with its terms, except to the extent enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally and by equitable principles.

(v) The execution and delivery by AMP of this Power Sales Contract and the performance by AMP of its obligations hereunder do not and will not contravene any law in existence on the date of execution and delivery of this Contract or any order, injunction, judgment, decree, rule or regulation in existence on the date of execution and delivery of this Contract of any court or administrative agency having jurisdiction over AMP or its property or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any ~~bond ordinance,~~ trust agreement, indenture, mortgage, deed of trust or other agreement in existence on the date of execution and delivery of this Contract to which AMP is a party or by which it or its property is bound.

(vi) All approvals, consents or authorizations of, or registrations or filings with, any governmental or public agency, authority or person required on the part of AMP in connection with the execution, delivery and performance of this Contract have been obtained or made, other than such approvals, consents, authorizations, registrations, or filings that relate to the AMP Fremont Energy Center and that are not yet required to have been obtained or submitted.

(vii) Except as set forth in Appendix K, there is no litigation or other proceedings pending or, to the best knowledge of AMP, threatened against AMP in any court, regulatory agency or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of AMP or the validity, legality or enforceability of this Contract or the authority of AMP or, to AMP's knowledge, any Participant to perform as contemplated by the terms of this Contract, other than any

proceeding brought by or on behalf of AMP or any of the Participants to validate this Power Sales Contract or any Bonds issued under a Trust Indenture.

(viii) The facts, descriptions and other information regarding this Contract, the AMP Fremont Energy Center, the permits and licenses for the same and power supply matters provided by AMP to the Participants and by AMP to the Consulting Engineer for the purposes of its load forecasts and Project feasibility studies provided to the Participants, have been prepared by or on behalf of AMP, in good faith and based on the facts known to AMP, and AMP has no knowledge or reason to believe there exists any information that has been withheld from any Participant or the Consulting Engineer that would cause such information to be materially misleading.

(ix) Pursuant to Section 32, AMP has the authority to sell CVEC an ownership interest in the Project.

(B) Unless otherwise noticed in writing to AMP prior to the Effective Date, ~~each Participant~~ CVEC represents to AMP that, as of the Effective Date:

(i)~~The Participant is a Political Subdivision~~ CVEC is a rural electric cooperative duly created and validly existing pursuant to the Constitution and statutes of ~~its domicile~~ state ~~set forth on Appendix A~~Virginia.

(ii)~~The Participant~~ Subject to its receipt of RUS approval, CVEC has full legal right and authority to enter into this Contract, to carry out its obligations hereunder and to furnish electric capacity and energy to its customers.

(iii) The governing body that has the requisite authority to authorize an appropriate officer of ~~the Participant~~ CVEC to execute and deliver this Contract in the name of, and on behalf of, the Participant is the Utility Governing Body. The Utility Governing Body duly approved this Contract and its execution and delivery on behalf of ~~the Participant~~ CVEC by ~~legislative~~ action duly and lawfully adopted at a meeting or meetings duly called and held pursuant to any necessary ~~public~~ notice at which any necessary quorums were present and acting throughout.

(iv) This Contract has been duly executed and delivered by the appropriate officers of ~~the Participant~~ CVEC so authorized or directed pursuant to legislative action of its Utility Governing Body, and, assuming that AMP has all the requisite power and authority to execute and deliver and has duly authorized, executed and delivered this Contract, this Contract~~, as between AMP and the Participant,~~ constitutes a legal, valid and binding obligation of ~~the Participant~~ CVEC enforceable in accordance with its terms, except to the extent enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally and by equitable principles.

(v) The execution and delivery of this Contract by ~~the Participant~~ CVEC and the performance by ~~the Participant~~ CVEC of its obligations hereunder do not and will not contravene any law in existence on the date of execution and delivery of this Contract or any order, injunction, judgment, decree, rule or regulation in existence on the date of execution and delivery of this Contract of any court or administrative agency having jurisdiction over ~~the Participant~~ CVEC or its property or result in a breach or violation of

any of the terms and provisions of, or constitute a default under, any ~~bond ordinance,~~ trust agreement, indenture, mortgage, deed of trust or other agreement in existence on the date of execution and delivery of this Contract to which ~~the Participant~~ CVEC is a party or by which it or its property is bound.

(vi) All approvals, consents or authorizations of, or registrations or filings with, any governmental or public agency, authority or person required on the part of ~~the Participant~~ CVEC in connection with the execution, delivery and performance of this Contract have been obtained or made and should RUS approval not be obtained before execution by CVEC and AMP, AMP will hold signed agreement in escrow until RUS approval is obtained and the Contract thereby becomes effective or, if RUS approval is not obtained prior to September 1, 2011, the Contract shall then terminate automatically, unless such date is extended by AMP.

(vii) Except as disclosed in writing to AMP prior to the execution and delivery of this Contract and described in Appendix K, ~~the Participant~~ CVEC has the power and authority to establish, collect and revise the rates charged to (i) the customers of its Electric System, or (ii) members in the case of a Participant that is a joint action agency, in accordance with this Contract and such rates are not subject to regulation by any regulatory authority of its domicile state or the United States of America.

(viii) Except as disclosed in writing to AMP prior to the execution and delivery of this Contract and described in Appendix K, the obligations of ~~the Participant~~ CVEC to make payments to AMP pursuant to this Contract are payable as O&M Expenses of ~~the Participant's~~ CVEC's Electric System and ~~neither such Participant nor its Electric System~~

CVEC has no outstanding ~~any~~ bonds, notes or other evidences of indebtedness payable from any revenues of its Electric System prior to or on a parity with its obligations to make payments to AMP under this Contract.

(ix) Except for pending or threatened litigation, if any, disclosed in writing to AMP prior to the execution and delivery of this Contract by ~~the Participant~~ CVEC and set forth in Appendix K, there is no litigation or other proceedings pending or, to the best knowledge of ~~the Participant~~CVEC, threatened against ~~the Participant~~ CVEC in any court, regulatory agency or other tribunal of competent jurisdiction (either local, State or Federal) questioning the creation, organization or existence of ~~the Participant~~ CVEC or its Electric System or the title to any property material to the operation of its Electric System, or the validity, legality or enforceability of this Contract other than any proceeding brought by or on behalf of AMP or ~~any of the Participants~~ CVEC to validate this Power Sales Contract or any Bonds issued under a Trust Indenture.

(x) Prior to the execution and delivery of this Contract by ~~the Participant~~CVEC, AMP has (a) provided ~~the Participant~~ it with ~~(I) a study prepared by a Consulting Engineer that demonstrates that the Participant can beneficially utilize not less than one hundred percent (100%) of the maximum PSCR Share authorized by its Utility Governing Body (unless otherwise indicated on Appendix K hereto), and (II)~~ the Project Feasibility Report, and (b) afforded the duly authorized representatives of ~~the Participant~~ CVEC the opportunity to ask such questions, review such data and reports, conduct such inspections and otherwise perform such investigations with respect to planning and proposed engineering, acquisition, construction and operation of the AMP Fremont

Energy Center and the terms and conditions of this Contract, as ~~the Participant~~ CVEC deems necessary or appropriate in connection with its entering into this Contract.

(xi) After consideration of the potential risks and benefits of the Project and this Contract, ~~the Participant~~ CVEC has determined it is reasonable and in its best interests to enter into this Contract for the purpose of purchasing its PSCR Share of the output of the Power Sales Contract Resources from AMP pursuant to this Contract on a "take-or-pay" basis in accordance with Section 5(I) and to pay AMP at the rates determined in accordance with this Contract and ~~which together with revenues from the Other Participants, are~~ sufficient to enable AMP to recover all of its Revenue Requirements under the Power Sales Contracts with respect to all Power Sales Contract Resources undertaken by AMP to enable it to meet its obligations hereunder.

(xii) By the execution and delivery of this Contract, ~~the Participant~~ CVEC authorizes, empowers and directs AMP to perform such undertakings for the benefit of ~~the Participant~~ CVEC as are specified in this Contract~~, including those undertakings with respect to the Buy-Out and the AMPGS stranded costs, if applicable~~, subject to such limitations and standards as are set forth herein.

SECTION 3. Sale and Purchase**.** (A) AMP ~~hereby agrees~~ has agreed to sell to each ~~Participant~~of the Participants, and each Participant ~~agrees~~ has agreed to buy from AMP, such Participant's PSCR Share (in %) of the Power Sales Contract Resources, such PSCR Share being shown in Appendix A, adjacent to such Participant's name, subject to increase as provided in Section 18, and further subject to *pro rata* reduction or increase, but in no event greater than authorized by such Participant's Utility Governing Body, if the AMP Entitlement in MW to the Base Capacity of the AMP Fremont Energy Center is different than the Base Capacity in MW shown in Appendix A. AMP's obligations to furnish Power Sales Contract Resources shall be principally those set forth in Section 4, in addition to those set out in other provisions of ~~this Contract~~the Power Sales Contracts. The Participants' obligations to take or pay for their respective PSCR Shares of Power Sales Contract Resources shall be principally those set forth in Section 5 and the Rate Schedule (Appendix B), in addition to those set out in other provisions of this Contract.

(B) Subject to the absolute payment obligations of the Participants set forth in Section 5(I), AMP shall borrow, and, unless otherwise authorized by a Super Majority of the Participants Committee, capitalize from the proceeds of such borrowing, all or a portion of the amounts otherwise payable by the Participants in respect of AMP's Revenue Requirements prior to the Commercial Operation Date of the AMP Fremont Energy Center and for a reasonable time thereafter.

(C) If at any time any Participant has capacity and/or energy in excess of its needs, it may request that AMP sell and make available or deliver any or all of said Participant's PSCR Share of capacity and/or energy available hereunder, and AMP shall use commercially reasonable efforts in consultation with such Participant to attempt to sell such surplus for such

Participant at not less than a minimum price approved by the Participant, subject, if applicable, to the provisions of Section 32 of the Other Power Sales Contract, first, *pro rata* to any other Participants that shall have previously indicated a willingness to AMP, pursuant to Section 4(G) hereof, to purchase any such surplus, second, *pro rata*, to any Members (that are not Participants) that shall have previously indicated a willingness to AMP to purchase any such surplus, and, third, to any other entity, on such terms and for such period as AMP deems appropriate and as AMP deems not adverse to the tax or regulatory status or other interests of AMP or the Participants or any Bonds. All net revenues (revenues received less any expenses incurred in connection with the sale) received by AMP from any such sales shall be credited against the Revenue Requirements allocable to such Participant on such Participant's next invoice rendered pursuant to Section 5 hereof, provided that nothing contained herein shall relieve such Participant from any obligation hereunder, unless and to the extent AMP shall receive net revenues for such sales.

(D) Should AMP's Board of Trustees deem it advisable, in order to minimize certain risks and taxes, the ~~Participants~~ Participant specifically ~~acknowledge and authorize~~ acknowledges and authorizes AMP to create subsidiary or affiliated entities to own all or a certain portion of the facilities or other assets constituting the Project or undivided interests therein, including without limitation the undivided interest associated with CVEC's PSCR Share and/or also including natural gas reserves, provided that:

(i) AMP shall retain control and not less than majority ownership of all such entities and shall remain responsible to CVEC or the Participants for all obligations to the Participants hereunder.

(ii) AMP shall have received opinions of counsel and a Consulting Engineer to the effect that the arrangements regarding such entities should not materially adversely affect the rights of, or increase the costs to, the Other Participants ~~hereunder~~ and are not inconsistent with any Trust Indenture~~.~~ (as defined herein and in the Other Power Sales Contract).

(iii) All such arrangements are approved by the Participants Committee.

(E) Should the AMP Board of Trustees determine, in its sole discretion, that AMP should exercise its ability as set forth in subsection ~~A~~ (A) of Section 34 to "subscribe" for up to twenty percent (20%) of Base Capacity~~–~~, it may sell or provide sales of capacity and energy therefrom, provided that AMP shall have received opinions of counsel and a Consulting Engineer to the effect that the arrangements regarding such entities should not materially adversely affect the rights of, or increase the costs to, the Participants ~~hereunder~~under the Power Sales Contracts, are not inconsistent with any Trust Indenture (as defined herein and in the Other Power Sales Contract) and will not adversely affect AMP's tax or regulatory status, provided, however, that the sale of an ownership interest in the Fremont Energy Center to Participant pursuant to Section 32 of this Contract has been determined by AMP, its counsel and Consulting Engineer not to: (i) have a material adverse effect on the other Participants; and (ii) be inconsistent with any Trust Indenture (as defined herein and in the Other Power Sales Contract) or adversely affect AMP's tax or regulatory status.

SECTION 4. AMP Undertakings**.** (A) AMP, in good faith and in accordance with the provisions of this Contract and Prudent Utility Practice:

(i) shall undertake, or cause to be undertaken, the planning, developing, engineering, acquisition, construction and equipping, with or without formal bidding, of the Project and its Fuel supply; the financing of costs of the same (including financing costs, legal, engineering, accounting and financial advisory fees and expenses and the Developmental Costs), and the operating, maintaining, refurbishing, replacing, retiring, decommissioning and disposing of the Project including without limitation acquisition of and arrangements for Fuel, subject to the provisions of subsection (A)(vi) of this Section 4; and to obtain, or cause to be obtained, all Federal, state and local permits, licenses and other rights and regulatory approvals as are necessary or convenient to accomplish the same;

(ii) shall utilize, to the extent available and in the best interests of the Participants, the AMP Fremont Energy Center as the primary Power Sales Contract Resource to fulfill its obligations to make available or deliver capacity and energy to the Participants at the Point of Delivery and respective Secondary Points of Delivery hereunder and utilize Replacement Power, when prudent and appropriate, as a secondary Power Sales Contract Resource;

(iii) may undertake, or cause to be undertaken, the acquisition of Replacement Power, as AMP deems necessary or desirable to enable AMP to make available or deliver scheduled electric capacity and energy to the Participants at their respective Secondary Points of Delivery in such amounts and on such terms as are set forth herein; provided, however, that any obligations for any such Replacement Power shall be subject to approval of the Participants Committee if such obligations are Long Term;

(iv) may, at the direction of the Participants Committee, utilize funds from the Reserve and Contingency Fund of any respective series of Bonds, to the extent not inconsistent with any Trust Indenture, to defray the costs of Replacement Power to the Participants~~–~~, *pro rata,* during any prolonged outage or derating of the AMP Fremont Energy Center; and

(v) shall inform the Participants Committee on a regular basis, not less often than quarterly in conjunction with the regular meetings of the AMP Board of Trustees, of its actions, plans and efforts undertaken in furtherance of clauses (i), (ii) and (iii), of this subsection (A), and subsections (C) and (D) of this Section 4 as well as its other activities under ~~this Contract~~ the Power Sales Contracts including review of the Project's proposed annual operating and capital budgets prior to their adoption and to receive and give due consideration to any recommendations of the Participants Committee regarding the same.

(vi) shall present the Project's overall Fuel supply strategy to the Fuel Subcommittee and Participants Committee and for their respective approvals, and subject to the provisions of subsection (G) of this Section 4, all Long Term purchases of reserves, hedges, pipeline capacity or other Fuel related items shall be subject to the Participants Committee's approval upon the recommendation of the Fuel Subcommittee.

(B) In the event that, notwithstanding its efforts undertaken in accordance with subsection (A) of this Section 4, AMP is unable to supply all of the capacity and energy contracted for by the Participants ~~hereunder~~under the Power Sales Contracts, it shall allocate the capacity and energy available from the Power Sales Contract Resources among the Participants *pro rata,* on the basis of their respective PSCR Share percentages. During any period AMP is unable, despite such efforts, to supply any or all of the capacity and/or energy contracted for by the Participants at the Point of Delivery and their respective Secondary Points

of Delivery hereunder, AMP shall not, absent willful misconduct, be liable to any Participant for damages resulting from such interruption or diminution of service.

(C) All capacity and energy available from the AMP Entitlement in the AMP Fremont Energy Center, including that portion above Base Capacity, and other Power Sales Contract Resources shall be available to the Participants *pro rata* in proportion to their PSCR Share percentage.

(D) In the event that at any time the AMP Entitlement in the AMP Fremont Energy Center or other Power Sales Contract Resources acquired by AMP to supply capacity and energy to the Participants at the Point of Delivery and their respective Secondary Points of Delivery pursuant to this Contract result in surplus capacity, surplus energy, surplus Transmission Service or Supplemental Transmission Service capacity, or other surplus rights, products or services that AMP believes may be salable to another entity in light of prevailing market conditions and the characteristics of any such surplus, or which due to prevailing market conditions make it desirable and in the best interests of AMP, the holders of the Bonds or the Participants to sell all or any portion of the capacity and energy associated with the Project or other Power Sales Contract Resource and utilize Replacement Power, to the extent required, to replace the same, AMP shall use commercially reasonable efforts to attempt to sell such surplus capacity, surplus energy, surplus transmission capacity, or other surplus product or service or such capacity and energy for such Participant at not less than a minimum price approved by the Participant or if not specified by such Participant by a methodology approved by the Participants Committee or if not determined by the Participants Committee, by AMP in accordance with Prudent Utility Practice, subject to the provisions of Section 32 of the Power Sales Contracts,

first, *pro rata* to Participants that shall have previously indicated a willingness to AMP, pursuant to Section 4 (I) hereof, to purchase any such surplus, and second *pro rata*, to any Members (that are not Participants) that shall have previously indicated a willingness to AMP to purchase any such surplus, and third, to any other entity, on such terms and for such period as AMP deems appropriate and as AMP deems not adverse to the tax or regulatory status or other interests of AMP, the Participants or any Bonds. All net revenues received by AMP from surplus sales pursuant to this subsection (D) shall be utilized by AMP to reduce the Revenue Requirements that otherwise must be paid by the Participants and thereby offset rates and charges to the Participants hereunder. Any such Long Term sales shall be subject to approval by the Participants Committee.

(E) In addition to sales of capacity and energy to any entity permitted by subsection (D) of this Section 4 and subsection (C) of Section 3, AMP may (i) sell, on a temporary or permanent basis, or otherwise dispose of Fuel, emission allowances or other inventory or spare parts for or byproducts from the AMP Fremont Energy Center or any other Power Sales Contract Resource or sell, lease or rent any excess land or land rights, including mineral or other subsurface rights and facilities associated with any such property or rights not required for operation of the AMP Fremont Energy Center or any other Power Sales Contract Resource or (ii) sell, lease or otherwise dispose of on a temporary or permanent basis any other rights or interests associated with any Power Sales Contract Resource; provided, however, that prior to entering into any such agreement on a permanent basis, or for any term of five (5) years or longer, pursuant to this clause (E)(ii), AMP shall have determined that such disposition will not adversely affect the tax or regulatory status of AMP or any Bonds and, for such sales if the rights or interests are valued in excess of $500,000 in 2011 dollars, shall have obtained the

approval of the Participants Committee and a report or certificate of an independent engineer or engineering firm having a national reputation for experience in such work to the effect that such permanent sale, lease or other disposition should not, in the ordinary course of operation of the AMP Fremont Energy Center, materially adversely affect the operation of the AMP Fremont Energy Center or AMP's ability to perform its obligations under this Contract. Neither arrangements pursuant to subsection (D) of Section 3 hereof nor a sale/lease back or similar financial or operating device appropriate under Prudent Utility Practice where the property sold or leased continues to provide benefits to Power Sales Contract Resources shall be construed to be governed by the provisions of clause (ii) of this subsection (E), provided that the same is approved by the Participants Committee.

(F) All capacity sold or made available hereunder shall include the associated installed capacity (or similar designation), in kilowatts, and AMP, upon written request of a Participant, shall provide such Participant with any appropriate certifications reasonably necessary for the Participant to confirm its rights to such capacity for any purpose, including any requirements of the MISO RTO or the PJM RTO.

(G) AMP covenants that, (i) prior to entering into any variable rate indebtedness or hedge or swap agreements or Fuel price hedges hereunder, it shall, in consultation with the Participants Committee, adopt, maintain and revise from time to time a written policy respecting such indebtedness and agreements, including the circumstances and terms under which such indebtedness and agreements may be terminated; (ii) prior to purchasing any gas reserves or entering into any Long Term prepayments respecting Fuel for the AMP Fremont Energy Center, it shall receive the approval of a Super Majority of the Participants; and, (iii) prior to entering

into any Long Term Replacement Power purchases, Fuel hedges, Long Term prepayments respecting Fuel, or the purchase of Fuel reserves, AMP shall offer ~~each Participant~~ CVEC the ability to opt out of any such arrangements. CVEC recognizes that to the extent AMP may use tax-advantaged debt to finance any of the above, CVEC may not be able to participate unless (i) AMP issues taxable debt for CVEC's *pro rata* share, or (ii) CVEC provides the capital for such *pro rata* share.

(H) AMP shall update the Appendices hereto as appropriate hereunder and provide copies of the same to the Participants in a timely manner.

(I) Whenever in this Contract, other than for sales of twelve (12) months or less pursuant to, for example, Section 18 (A), AMP shall be obligated to provide the Participants a right of first refusal with respect to Power Sales Contract Resources (for purposes of this subsection (I) this does not include the AMP Entitlement), it is understood by the Participants that it may be in the best interests of the Participants for AMP to resell such Power Sales Contract Resources immediately and that it may be impracticable for AMP to effectively communicate a *bona fide* offer to all the Participants of such Power Sales Contract Resources under the circumstances. Therefore, AMP agrees to poll the Participants annually and to maintain a list of those Participants that shall evidence in a written response delivered to AMP, their current interest in purchasing Power Sales Contract Resources in excess of their PSCR Shares; provided, however, that AMP shall not be liable to any Participant to which AMP shall not extend a right of first refusal where AMP shall have acted in good faith.

(J) AMP and the Participants recognize that there may be certain environmental attributes such as green tags, renewable energy credits, carbon credits or the like associated

with the AMP Entitlement in the AMP Fremont Energy Center's generation. Each Participant shall be entitled to a share of the benefits associated with all such environmental attributes in proportion to its PSCR Share. AMP shall adopt, from time to time, with the approval of the Participants Committee, protocols for utilizing or distributing such environmental attributes to, or for the benefit of, the Participants.

SECTION 5. Rates and Charges; Method of Payment**.** (A) After consultation with the Participants Committee, the Board of Trustees of AMP shall establish, maintain and adjust rates or charges, or any combination thereof, as set forth in the Rate Schedule, for the capability and output of the Power Sales Contract Resources sold to the Participants under ~~this Contract~~ the Power Sales Contracts that result in Project Rates and other rates and charges hereunder, adjusted as set forth herein, at levels that will provide revenues to or for the account of AMP sufficient, but only sufficient, to meet the "Revenue Requirements" of AMP, which Revenue Requirements shall consist of the sum of the following without duplication:

(i) all costs incurred by AMP under the Related Agreements, including, without limitation, all costs to AMP of any Replacement Power, including Transmission Service therefor, as well as any costs incurred pursuant to Section 18(F);

(ii) all costs incurred by AMP for the operation and maintenance of all Power Sales Contract Resources, including but not limited to, the costs of acquisition of or arrangements regarding Fuel, equipment leases and other leases, an appropriate allocation of AMP's energy control center charges, metering and other common costs of AMP reasonably allocable to Power Sales Contract Resources and not otherwise recovered by the Service Fee or other fees or charges, that AMP charges the Participants pursuant to other agreements, the cost to AMP of taxes, payments in lieu of taxes, all permits, licenses and related fees, related to any Power Sales Contract Resource, the cost of insurance and damage claims to the extent associated with any Power Sales Contract Resource, any Fuel and Fuel related costs including without limitation costs related to pipeline capacity or natural gas supplies or reserves, pollution

control or emissions costs, fees and allowances, cost of any refunds to any Participant pursuant to the provision hereof and (to the extent not paid out of the proceeds of Bonds or related investment income) legal, engineering, accounting and financial advisory fees and expenses;

(iii) costs of decommissioning and disposal of Power Sales Contract Resources, including reserves therefor;

(iv) the cost to establish and maintain, or to obtain the agreement of third parties to provide, to the extent not included in Project Costs, an allowance for working capital, inventories and spares, including emission fees, allowances, credits or other environmental rights, and reasonable reserves for repairs, refurbishments, renewals, replacements and other contingencies deemed necessary by the Board of Trustees of AMP in order to carry out its obligations under ~~this Contract~~ the Power Sales Contracts and the cost to AMP of renewals and replacements of the AMP Fremont Energy Center to the extent not paid for out of working capital or reserves;

(v) the cost of power and Fuel supply engineering, planning and forecasting incurred by AMP in connection with the performance of its obligations under ~~this Contract~~ the Power Sales Contracts or in attempting to comply with laws or regulations requiring the same to the extent such laws or regulations are applicable to Power Sales Contract Resources;

(vi) the Service Fees not otherwise charged by AMP pursuant to other agreements;

(vii) the costs of Supplemental Transmission Services furnished or procured and paid by AMP for the respective Participants as set forth in the Rate Schedule, such costs to be reimbursed to AMP by the respective Participants receiving such services and not through the Project Rate as provided in subsection (C) of this Section 5;

(viii) payments of principal of and premium, if any, and interest on all Bonds, payments which AMP is required to make into any fund or account during any period to be set aside for the payment of such principal, premium or interest when due from time to time under the terms of any Trust Indenture (whether, in the case of principal of any Bond, upon the stated maturity or upon prior redemption, including any mandatory sinking fund redemption, under such Trust Indenture), and payments which AMP is required to make into any fund or account to establish or maintain a reserve for the payment of such principal, premium or interest under the terms of any Trust Indenture, provided, however, that the amounts required to be included in Revenue Requirements pursuant to this clause (viii) shall not include payments in respect of the principal of any Bonds payable solely as a result of acceleration of maturity of such Bonds and not otherwise scheduled to mature or to be redeemed by application of mandatory sinking fund payments; provided further, however, that the amounts required to be included in Revenue Requirements pursuant to this clause (viii) may include payments in respect of a termination of an investment agreement, hedge or swap agreement; provided payments respecting Bonds issued regarding any Buy-Out related costs or the stranded costs recoverable under the AMPGS PSC shall be reimbursed to AMP, *pro rata*, by only those Participants who participated in a Buy-Out and/or requested AMP to finance all or a portion of their allocable share of the stranded costs of AMPGS, as the case may be, and

not through the Project Rate as provided in subsection (C) of this Section 5 and not by CVEC;

(ix) amounts required under any Trust Indenture to be paid or deposited into any fund or account established by such Trust Indenture (other than funds and accounts referred to in clause (viii) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (viii) above;

(x) the cost to establish and maintain additional reserves, or to obtain the agreement of third parties to provide, for contingencies including (a) reserves against losses established in connection with any program of self-insurance, (b) the making up of any deficiencies in any funds or accounts as may be required by the terms of any Trust Indenture and (c) contributions to any Rate Stabilization Fund or Environmental Fund, subject, to the extent not otherwise required to be paid as a part of Revenue Requirements or required by any Trust Indenture, to approval by the Participants Committee;

(xi) amounts required to be paid by AMP to procure, or to perform its obligations under, any liquidity or credit support obligation (to the extent not included in clause (viii) above), interest rate swap or hedging instrument (including, in each case, any amounts due in connection with the termination thereof to the extent not included in clause (viii) above) associated with any Bonds or amounts payable with respect thereto;

(xii) additional amounts, if any, that must be realized by AMP in order to meet the requirements of any rate covenant with respect to coverage of debt service on Bonds

under the terms of any Trust Indenture, and such additional amounts as may be deemed by AMP desirable to facilitate marketing Bonds on favorable terms; and

(xiii) any cost or expenditure associated with the AMP Fremont Energy Center's compliance with any applicable reliability standards,

less amounts arising from any Operating Agreement and amounts available as a result of any appropriate refunds, rebates, miscellaneous revenues or other distributions relating to the AMP Fremont Energy Center and any sales or other arrangements referred to in subsections (D) and (E) of Section 4 hereof (after payment of all associated costs and expenses incurred by AMP in connection therewith) or otherwise required by the MISO RTO or PJM RTO, or their respective successors, and less any Bond proceeds or related investment income applied by AMP, in the exercise of its discretion, to pay any costs referred to in clauses (i) through (xiii) above, provided, however that in the event that any Trust Indenture requires another application of such funds or AMP determines that any amount of such proceeds or income must be applied in accordance with the provisions of clause (i) of subsection (J) of this Section 5, then and to such extent such other application shall be required, such funds shall be so applied.

(B) The Revenue Requirements of AMP in respect of any Month shall be computed as provided in this Section 5 and shall be paid by the respective Participants through rates and charges as set forth in the Rate Schedule. In determining the rates and charges hereunder, estimated amounts may be utilized until actual data becomes available, at which time any necessary adjustments necessary to true-up the estimates to actual shall be made.

(C) The rates and charges to each of the Participants under ~~this Contract~~the Power Sales Contracts, as set forth on the Rate Schedule, shall, except as adjusted as set forth in subsection (L) of this Section 5, and to reflect CVEC's actual costs respecting Bonds, be a uniform Project Rate to the Point of Delivery, provided that (i) each Participant which receives availability or delivery of capacity and energy hereunder at a Secondary Point of Delivery shall be responsible for the cost of Supplemental Transmission Service or other services related to such availability or delivery and, if not paid to a third party transmission entity by the Participant, shall be charged an additional amount equal to the additional cost to AMP, if any, of availability at or delivery to such Secondary Point of Delivery, including any state and local taxes incurred as a result of such availability, delivery or sale, as set forth on the Rate Schedule, and (ii) amounts, if any, respecting reactive power requirements or power factor standards as set forth in Section 10 hereof shall be charged an additional amount equal to such cost~~; (iii) all Buy-Out related costs shall be charged only to each respective Participant in proportion to its Buy-Out costs and any Bonds issued with respect to such costs; and (iv) all costs related to the financing of AMPGS stranded costs shall be charged only to the Participants electing, pursuant to Section 5(K)(ii) hereof, for AMP to finance all or a portion of their allocable shares of the AMPGS stranded costs in proportion to such costs and any Bonds issued with respect to such costs~~.

(D) An estimated initial Rate Schedule is attached as Appendix B hereto. After consultation with the Participants Committee, the Board of Trustees of AMP will determine and establish the initial Rate Schedule to be effective, except as provided in subsection (B) of Section 3, on or about the Commercial Operation Date of the AMP Fremont Energy Center, to meet AMP's Revenue Requirements. At such intervals as the Board of Trustees of AMP shall determine appropriate, but in any event not less frequently than at the end of each quarter

during each Contract Year, the Participants Committee and the Board of Trustees of AMP shall review and, if necessary, the Board of Trustees shall revise prospectively the Rate Schedule to ensure that the rates and charges under ~~this Contract~~ the Power Sales Contracts continue to cover AMP's estimate of all of the Revenue Requirements and to recognize, to the extent not inconsistent with this Contract, other factors and changes in service conditions as it determines appropriate. AMP shall transmit to each Participant a copy of each revised Rate Schedule, setting forth the effective date thereof, for delivery not less than thirty (30) days prior to such effective date. Each Participant agrees that the revised Rate Schedule, as determined from time to time by the Board of Trustees of AMP in accordance with this Section 5, shall be deemed to be substituted for the Rate Schedule previously in effect and agrees to pay for electric capacity and energy and related Transmission Service and Supplemental Transmission Service made available by AMP to it hereunder after the effective date of any revision of the Rate Schedule in accordance with such revised Rate Schedule. Unless otherwise determined by the AMP Board of Trustees, the Rate Schedule shall be structured so as to consist of: (i) a Demand Charge, principally designed to recover fixed costs, including those described in clauses (viii) through (xii) of the definition of Revenue Requirements and the fixed costs of any Transmission Service, associated with providing Power Sales Contract Resources; (ii) an Energy Charge, principally designed to recover the variable costs of providing energy from Power Sales Contract Resources and any variable costs of Transmission Service; (iii) a Power Cost Adjustment Factor designed to adjust either or both the Demand Charge or Energy Charge upward or downward to reflect Monthly changes in fuel and environmental costs and Replacement Power costs, any sales of capacity or energy to third parties hereunder and any changes in the cost of Transmission Service; (iv) the Service Fee; and (v) a Participant specific rate for Supplemental

Transmission Service for each Secondary Point of Delivery to the extent AMP incurs costs related thereto and ~~a~~ Participant specific rate for any charges pursuant to subsection (K) of Section 5 which shall not apply to CVEC. The determination of the Power Cost Adjustment Factor each Month shall be made by appropriate representatives designated by AMP according to methodology approved by the Participants Committee and by the AMP Board of Trustees, and no specific action by the Participants Committee or the AMP Board of Trustees to approve the Power Cost Adjustment Factor so determined each Month shall be required.

(E) Unless some other time period is otherwise approved by the AMP Board of Trustees and the Participants Committee, in each Month after the establishment of the initial Rate Schedule, AMP shall render to each Participant a Monthly invoice (a sample of which is included in Appendix B) showing the amount payable by such Participant under this Contract with respect to capacity and energy, Transmission Service, Supplemental Transmission Service or other charges, credits, adjustments or true-ups, applicable to such Participant with respect to the immediately preceding Month. Prior to the Commercial Operation of the AMP Fremont Energy Center, such invoice may include payments with respect to any Bonds issued hereunder as well as Replacement Power, but only to the extent required and approved as required in subsection (B) of Section 3. Such Participant shall pay such amounts to AMP at its principal office, or to such other person at such other address as shall be designated by AMP by written notice to such Participant, at such time and in such manner as shall provide to AMP (or such other person so designated by AMP) funds available for use by AMP (or its designee, including a lender or agent thereof or trustee under any Trust Indenture) on the first banking day not more than the fifteenth (15th) day after the date of the issuance of the Monthly invoice.

(F) If any Participant does not make a required payment in full in funds available for use by AMP (or its designee) on or before the close of business on the due date thereof, a delayed-payment charge on the unpaid amount due for each day over-due will be imposed at a rate per annum equal to the lesser of (i) the maximum rate permitted by law, and (ii) two percent (2%) per annum above the rate available to AMP through its short-term credit facilities as the same may be adjusted from time to time, together with any damages or losses incurred by AMP, or through AMP, or any other Participant, as a result of such failure to make timely payment which is not compensated by such delayed-payment charge.

(G) In the event of any dispute by any Participant as to any portion of any invoice, such Participant shall nevertheless pay the full amount of the disputed charges when due and shall give written notice of the dispute to AMP not later than one hundred eighty (180) days from the date such payment is due; provided, however, that AMP shall not be required to refund any disputed amounts relating to third-party charges if such notice, although timely hereunder, does not afford AMP a reasonable opportunity to pursue a claim against such third-party due to the requirements of a Related Agreement, RTO, Transmission Service or Supplemental Transmission Service provider dispute resolution procedures. Such notice shall identify the disputed invoice, state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. No adjustment need be considered or made for disputed charges unless such notice is given. AMP shall consider such dispute and shall advise such Participant with regard to its position relative thereto within sixty (60) days following receipt of such written notice. Upon final determination (whether by agreement, arbitration, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount, together with interest (from the date of the disputed payment to the due date of the invoice next

submitted to the Participant after such determination) at the rate which would apply under this Contract to overdue amounts owing by such Participant pursuant to subsection (F) of this Section 5, shall be subtracted by AMP from the invoice next submitted to such Participant after such determination (and paid by AMP to the Participant in funds available for use by the Participant on the due date of such next invoice if, but only to the extent by which, the amount so due to the Participant exceeds the amount of the next invoice). For purposes of this subsection (G), the date of payment by the Participant shall mean the date on which funds in the amount so paid first become available for use by AMP (or its designee). Billing disputes and any subsequent adjustments hereunder shall be limited to the two (2) year period prior to the date timely notice was given as required by this subsection (G); provided, however, that to the extent AMP may reasonably pursue a third-party on account of such dispute for a period longer than such two (2) year period, AMP shall do so and adjustments may, to such extent, relate to such longer period.

(H) In the event that at any time AMP shall determine that it has rendered an invoice containing a billing error, AMP shall furnish promptly to each Participant whose invoice was in error a revised invoice, clearly marked as such, with the error corrected. If the revised invoice indicates that the Participant has been undercharged, the difference between the amount paid by the Participant and the correct amount, together with interest (from the date of payment by the Participant of the incorrect amount to the due date of the invoice next submitted to the Participant after AMP has furnished the revised invoice) at the rate which would apply under this Contract to overdue amounts owing by such Participant pursuant to subsection (F) of this Section 5, less two percent (2%), but not less than zero, shall be paid by the Participant to AMP (or such other person designated by AMP pursuant to subsection (E) of this Section 5) at such

time and in such manner as shall provide to AMP (or such other person so designated) funds available for use by AMP (or its designee) on the due date of such next invoice. If the revised invoice indicates that the Participant has been overcharged, the difference between the correct amount and the amount paid by the Participant, together with interest (from the date of payment by the Participant of the incorrect amount to the due date of the invoice next submitted to the Participant after AMP has furnished the revised invoice) at the rate which would apply under this Contract to overdue amounts owing by such Participant pursuant to subsection (F) of this Section 5, less two percent (2%), but not less than zero, shall be subtracted by AMP from the invoice next submitted to such Participant (and paid by AMP to the Participant in funds available for use by the Participant on the due date of such next invoice if, but only to the extent by which, the amount so due to the Participant exceeds the amount of the next invoice). For purposes of this subsection (H), the date of payment by the Participant shall mean the date on which funds in the amount so paid first become available for use by AMP (or its designee).

(I) The obligations of each Participant to make its payments under this Section 5, except any payments pursuant to Section 5(K) of the Other Power Sales Contract, shall constitute obligations of such Participant payable unless otherwise disclosed in Appendix K, as an O&M Expense of its Electric System. No Participant shall be required to make payments under this Contract except from the revenues of its Electric System and from other funds of such system legally available therefor. ~~In no event shall any Participant be required to make payments under this Contract from tax revenues, or any other source of funds other than its Electric System's funds, but it may elect, in its sole discretion, to do so.~~ The obligations of each Participant to make payments under all subsections of this Section 5 in respect of any Month or other billing period shall be on a "take-or-pay" basis and, therefore, shall not be subject to any

reduction, whether by offset, counterclaim, or otherwise, such payment obligations of such Participant shall not be conditioned upon the performance by AMP or any other Participant of its obligations under this Contract or any other agreement, and such payments shall be made whether or not any generating unit of the AMP Fremont Energy Center, any other component thereof or any other Power Sales Contract Resource is completed, operable, operating or capable of providing capacity or energy and, as long as Bonds issued under Section 15 hereof remain outstanding, notwithstanding the suspension, interruption, interference, reduction or curtailment, in whole or in part, for any reason whatsoever, of the AMP Entitlement or the Participant's PSCR Share, including Step Up Power, if any; provided, however, that nothing contained herein shall be construed to prevent or restrict such Participant from asserting any rights which it may have against AMP under this Contract or under any provision of law, including institution of legal proceedings.

(J) Proceeds from the sale of Bonds in excess of the amount required for the purposes for which such Bonds were issued and investment income earned on any investments held under the Trust Indenture shall be applied, subject to the provisions of any Trust Indenture, by AMP, as approved by the Participants Committee (i)(a) to pay principal or interest on the Bonds, (b) to the purchase or redemption of Bonds prior to their stated maturity, (c) to the payment of costs of renewals and replacements of any property constituting a part of the Power Sales Contract Resources, or as a reserve therefor and (ii) as a credit against the Revenue Requirements. Insurance proceeds, condemnation awards and damages received by AMP in connection with any Power Sales Contract Resource and not required to be applied to the restoration, renewal or replacement of facilities, and proceeds from the sale or disposition of surplus property constituting a part of the Power Sales Contract Resources, shall be applied by

AMP, subject to approval by the Participants Committee and to the provisions of Section 32(A) hereof, (a) to the purchase or redemption of Bonds prior to their stated maturity, (b) to the payment of costs of renewals and replacements of any property constituting a part of the Power Sales Contract Resources, or as a reserve therefor by deposit to the Reserve and Contingency Fund, or (c) as a credit against Revenue Requirements. Notwithstanding anything contained in the foregoing provisions of this subsection (J), if any Trust Indenture, any instrument of a similar nature relating to borrowings by AMP to finance Power Sales Contract Resources or any Related Agreement shall require the application of any amount referred to in the foregoing provisions of this subsection (J) to any specific purpose, AMP shall apply such amount to such purpose as so required.

(K) ~~(i)If a Participant has excess purchased energy in any period ending on or before December 31, 2015 as a result of participation herein, such Participant may have a liability for costs associated with the sale of such excess, whether associated with AMPGS Replacement Power or other arrangements. Such energy may be excess and may be more expensive than energy from the AMP Fremont Energy Center and should therefore be sold on such Participant's behalf into the market ("Buy-Out"). Such Buy-Out may be at a loss. AMP offers each such Participant the option hereunder to have AMP finance an amount up to a reasonable estimate of such loss and any other associated costs with a separate series of Bonds and thereby enable such Participants to pay their respective Buy-Out costs, such Bonds to be secured, *pro rata*, solely by each individual Participant's obligations to pay amounts allocable to such Participant's share of the Buy-Out costs. Such Participant may choose this option by indication set forth on Part 1 of Appendix M subject to written revocation notice by such Participant to AMP not less than thirty (30) days after written notice from AMP that it is preparing~~

~~to issue Bonds respecting such costs. AMP will pay such costs, and such Participant shall be credited under the AMPGS Replacement Power Schedule or other applicable agreement between AMP and such Participant for all sums, plus any accrued interest, that are so paid by AMP. Any funds remaining to such Participant's credit after a final accounting of such Buy-Out costs shall be first applied to repay that portion of Bonds issued in respect to such costs, and any balance shall be promptly refunded to such Participant with any accumulated interest. The proceeds of any such Bonds and any amounts collected under this subsection (K) (i) of this Section 5 credited for such purpose are not available for any other purpose under the Power Sales Contract or any Trust Indenture.~~ [Reserved]

~~(iii) The obligations of each Participant to make its payments under subsection (K) of this Section 5 shall constitute as obligations of such Participant payable from any available funds of its Electric System; provided, however, that this provision shall not be construed to diminish or modify any other payment obligations under the AMPGS PSC or other contracts between AMP and any Participant.(ii)If a Participant is also an AMPGS Participant in AMPGS under the AMPGS PSC, such Participant may have a liability for stranded costs incurred associated with AMPGS under the AMPGS PSC which project has been terminated as a coal-fired electric generating project. As this Power Sales Contract is being made available to AMPGS Participants as a partial replacement for a natural gas combined cycle that was to be a part of a modified AMPGS, each such Participant has the option hereunder to have AMP finance, through one or more separate series of Bonds, an amount up to the amount invoiced by AMP for the purpose of reserving such amount for payment of, or of paying immediately, such Participant's share of such stranded costs, such Bonds to be secured, *pro rata*, solely by each individual Participant's obligations to pay amounts allocable to such Participant's share of~~

~~stranded costs financed by AMP. Such Participant may choose this option by indication set forth on Part 2 of Appendix M subject to a written revocation notice by such Participant to AMP not less than thirty (30) days after written notice from AMP that it is preparing to issue Bonds respecting such costs. AMP may draw on such reserve to pay all or a portion of such costs, and such Participant shall be credited under the AMPGS PSC for all sums paid immediately and so drawn, plus any accrued interest on said reserve. Any funds remaining to such Participant's credit in said reserve after a final accounting of the AMPGS costs shall be first applied to repay any portion of Bonds issued in respect to such costs, and any balance shall be promptly refunded to such Participant with any accumulated interest. The proceeds of any such Bonds and any amounts collected under this subsection (K) (ii) of this Section 5 credited for such purpose are not available for any other purpose under the Power Sales Contract or any Trust Indenture.~~

(L) AMP shall, utilizing procedures and methodologies approved by the Participants Committee from time to time, allocate Fuel and other costs among the Participants to reflect all cost differences, including credit and credit risk related costs, respecting any Participants' decision to opt out as specified in subsection (G) of Section 4 of this Contract.

SECTION 6. Scheduling of Deliveries**.** (A) At the request of any Participant, AMP shall provide scheduling services for such Participant for the capacity and energy purchased ~~hereunder~~ under the Power Sales Contracts without additional charge over and above what is included in Revenue Requirements. Each Participant shall be entitled to schedule in each hour up to the amount of energy associated with such Participant's percentage PSCR Share shown for such Participant in Appendix A times the Available Capacity. Each Participant shall provide AMP information, in the form reasonably requested by AMP, for the purpose of preparing schedules, including revisions from time to time, for deliveries or availability of capacity and energy hereunder, and such information shall be submitted in a timely manner and in a form sufficient to allow AMP to satisfy the requirements for scheduling in any applicable tariffs for Supplemental Transmission Service or any Related Agreements. Subject to the provisions of each such tariff or Related Agreement, AMP shall, recognizing losses (with losses on Supplemental Transmission Service treated separately as shown in the Rate Schedule), schedule or cause to be scheduled deliveries hereunder in accordance with the information including revisions thereto, furnished to it by each Participant or its agent as herein. Should it so desire, each Participant or its agent shall be permitted to maintain twenty-four (24) hour communication with AMP's energy control center or appropriate AMP operating personnel for purposes of modifying schedules. It is understood by each Participant that the AMP Fremont Energy Center is a natural gas combined cycle facility with peaking capacity that has specific operational parameters. Accordingly, such Participant shall schedule all energy deliveries hereunder, in accordance with Appendix I, in amounts no greater than an amount of energy equal to the percentage of that Participant's PSCR Share as shown on Appendix A multiplied by the sum of (i) the net capability during such hour of the AMP Entitlement to the AMP Fremont

Energy Center's generating facilities, as determined by AMP in accordance with Prudent Utility Practice, plus (ii) associated Peaking Capacity, plus (iii) any available capacity or energy associated with Replacement Power at that time (collectively "Available Capacity"). The scheduling protocol set forth herein may be modified by AMP upon the recommendation of the Participants Committee if not otherwise inconsistent with this Power Sales Contract or any Related Agreement and consistent with Prudent Utility Practice. It is understood by the Parties, however, that to the extent there are no economic, technical, operating or engineering reasons not to change these requirements to allow the benefits of economic dispatch to an individual Participant, the requirements stated herein and in Appendix I may be modified accordingly.

(B) It is further understood by each Participant, however, that such Participant may be required from time to time to accept scheduling or delivery protocols from AMP, upon the recommendation of the Participants Committee, regarding capacity and energy from Power Sales Contract Resources that limit, both up and down, the levels or the change in level requested in any hour, for operating reasons. AMP shall use its best efforts to inform each Participant or its agent when such Participant's schedule of energy in any hour is increased or decreased. AMP shall attempt to sell any excess or otherwise mitigate the impact of such changes on the Participants and to the extent it cannot, shall impose any such change equitably. In the event any Participant fails to provide AMP with the necessary written information for the purpose of AMP preparing schedules, AMP, in its sole judgment and discretion, shall have the right to estimate a schedule for deliveries to such Participant and use such estimated schedule for purposes of satisfying any scheduling requirements of AMP. AMP shall endeavor to keep each Participant or its agent informed of all matters that may affect such Participant's ability to carry out its responsibilities under the provisions of this Section 6.

(C) Any modifications to the scheduling and dispatch protocols set forth in this Section 6 shall be reflected in a revised Appendix I.

SECTION 7. Electric Characteristics; Point of Delivery; Secondary Points of Delivery; Measurement of Electric Power and Energy Furnished. Electric capacity and energy to be furnished ~~hereunder~~ under the Power Sales Contracts shall be furnished as alternating current, three phase, 60 Hertz. Electric capacity and energy made available or scheduled pursuant to ~~this Contract~~ the Power Sales Contracts shall be made available or delivered at the Point of Delivery and then to Participants' respective Secondary Points of Delivery. The points of measurement, delivery voltage and other conditions of service shall be as set forth on Appendix C or as otherwise agreed between AMP and any Participant or as otherwise determined pursuant to policies and procedures agreed to by AMP and the Participants Committee.

SECTION 8. Metering**.** (A) Unless otherwise agreed by AMP and any Participant, all deliveries or availability of capacity and energy to such Participant pursuant to ~~this Contract~~ the Power Sales Contracts shall be on a scheduled basis.

(B) To the extent necessary, AMP shall install, maintain and operate, or cause to be installed, maintained and operated, any metering equipment, including area interchange metering and telemetering equipment, required to measure the power and energy produced and delivered pursuant to ~~this Contract~~the Power Sales Contracts. Each Participant agrees to cooperate with AMP as necessary to enable AMP to meet its obligations pursuant to the immediately preceding sentence.

(C) Each Participant shall be responsible for the costs of metering at its respective Secondary Point(s) of Delivery in accordance with any applicable RTO's or transmission provider's tariffs, rules or regulations. Unless otherwise noted on Appendix C, AMP believes no metering modifications are required, as of the Effective Date.

SECTION 9. Right of Access**.** Duly authorized representatives of AMP shall be permitted any reasonably necessary access to each Participant's premises at reasonable times and in a reasonable manner in order to carry out the provisions of ~~this Contract~~the Power Sales Contracts, and duly authorized representatives of each Participant shall be permitted any reasonably necessary access to AMP's premises, including the AMP Fremont Energy Center, at reasonable times and in a reasonable manner in order to carry out the provisions of ~~this Contract~~the Power Sales Contracts. The Participants and AMP agree to cooperate with any third parties, including but not limited to transmission providers or representatives of the PJM RTO or the MISO RTO, to the extent necessary to facilitate operations hereunder.

SECTION 10. Reactive Power; Power Factor**.** It is understood by the Parties that each Participant shall furnish or cause to be furnished, at its own expense, its own interconnection reactive power requirements in accordance with the standards of the applicable RTO or other entity providing wholesale delivery service to its Secondary Delivery Point. It is also understood that the delivery or availability of electric capacity and energy to such Secondary Delivery Point pursuant to ~~this Contract~~ the Power Sales Contracts may require such Participant to maintain a specific power factor or keep its power factor within a specified range. Such Participant shall take all steps necessary to maintain the range or specific power factor required so as to be able to accept deliveries hereunder. AMP may levy a charge on a Participant equal to AMP's cost of obtaining any required local load interconnection reactive power or power factor service for such Participant if and to the extent AMP is required to pay the same in order to deliver or make available capacity and energy hereunder. If under an RTO or other applicable tariff or agreement AMP or the Participant is required to obtain equipment to correct such local load interconnection reactive power or power factor deficiencies, the Participant will cooperate with AMP to install the required equipment and will be solely responsible for the costs associated with the equipment. It is further understood that should a Participant designate delivery or availability of capacity and energy hereunder to some other entity, then such Participant is responsible for arranging for such entity to comply with the provisions of this Section 10.

Non-compliance with this Section 10 shall relieve AMP of any responsibility or liability for failure to deliver to any Secondary Delivery Point if, and to the extent, it is unable to do so as a result of a Participant's non-compliance. In such instance, the Participant shall nonetheless be liable for all payments hereunder.

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SECTION 11. *Force Majeure***.** Neither AMP nor any Participant shall be considered to be in default in respect to any obligation ~~hereunder~~ under the Power Sales Contracts (other than the obligation of each Participant to make payments ~~hereunder~~under the Power Sales Contracts) if prevented from fulfilling such obligation by reason of *Force Majeure*. A Party rendered unable to fulfill any such obligation by reason of *Force Majeure* shall exercise due diligence to remove such inability with all reasonable dispatch and such Party shall promptly communicate with the other regarding such *Force Majeure*, its expected length and the actions being taken to remove the same.

SECTION 12. Insurance**.** AMP shall maintain, or cause to be maintained, in force, and is authorized to procure insurance with responsible insurers with policies payable to the Parties as their interests shall appear, against risk of direct physical loss, damage or destruction, at least to the extent that similar insurance is mandated by law or usually carried by utilities constructing and operating facilities of the nature of the facilities of the AMP Fremont Energy Center and other properties or rights associated therewith, including liability insurance, Workers' Compensation and employers' liability, all to the extent available at reasonable cost and subject to reasonable deductible provisions, but in no case less than will satisfy all applicable regulatory requirements, including any applicable permit or license requirements, and conform to Prudent Utility Practice. AMP may procure additional insurance subject to the approval of the Participants Committee. Notwithstanding the foregoing, AMP may, to the extent permitted by the Related Agreements, the Trust Indentures and the similar instruments relating to Bonds and, subject to the approval of the Participants Committee, self-insure or participate in a program of self-insurance or group insurance to the extent it receives a written opinion of a qualified insurance consultant that such self-insurance, after consideration of any existing or required reserve deposits, is reasonable in light of existing programs of comparable utilities constructing and operating facilities of the nature of the AMP Fremont Energy Center. All insurance proceeds shall be utilized in accordance with and subject to the provisions of subsection (J) of Section 5 hereof.

SECTION 13. Accounting. AMP shall keep accurate records and accounts relating to ~~this Contract~~ the Power Sales Contracts substantially in accordance with generally accepted accounting principles, separate and distinct from its other records and accounts. Said accounts shall be audited annually by a firm of certified public accountants, of favorable national reputation, to be employed by AMP. A copy of each annual audit, with all written comments and recommendations of such accountants included with or accompanying such final audit, shall be furnished by AMP to each Participant within a reasonable time after the end of each Contract Year. Each Participant agrees to keep accurate records and accounts relating to the conduct of its Electric System in accordance with generally accepted governmental accounting standards or otherwise if and as required by applicable law or any contract existing on the Effective Date.

SECTION 14. Access to Information**.** (A) Subject to applicable law and the provisions of the Related Agreements and upon written request to AMP:

(i) all drawings, plans, specifications, capital cost estimates, capital budgets, construction schedules, licenses, permits and contracts relating to the planning, engineering, acquisition, construction, operation, Fuel procurement and maintenance of the Project and any other Power Sales Contract Resources shall be made available for examination by any Participant;

(ii) copies of all agreements and data in the possession of AMP relating to its financing of costs associated with the AMP Entitlement and any other Power Sales Contract Resources shall be made available for examination by any Participant;

(iii) copies of all budgets, operating and billing and financial data records and reports, including but not limited to rates under the Rate Schedule and the determination of Revenue Requirements relating to the AMP Fremont Energy Center and the other Power Sales Contract Resources in the possession of AMP shall be made available for examination by any Participant;

(iv) copies of insurance policies (or certificates of insurance) carried pursuant to Section 12 hereof shall be made available for examination by any Participant; and

(v) each Participant's representatives shall at all reasonable times be given reasonable access to the AMP Fremont Energy Center and any other facilities or property owned by AMP that constitutes a part of the Project.

(B) Each Participant shall, upon written request, furnish to AMP all such information, certificates, engineering reports, feasibility reports, financial statements, opinions of counsel and other documents as shall be reasonably necessary or useful to AMP in connection with the performance of AMP's obligations under ~~this Contract~~the Power Sales Contracts, including the issuance and sale of Bonds by AMP.

(C) AMP and each of the Participants will promptly furnish to each other such other information as may be reasonably requested from time to time in order to carry out the intent and purpose of ~~this Contract~~ the Power Sales Contracts or as may be reasonably necessary and convenient in the conduct of the operations of the Party requesting such information and, in particular, may be necessary or useful in connection with the issuance of Bonds by AMP or the issuance of debt by any Participant.

(D) The Parties shall accommodate reasonable requests for documents and information made available pursuant to subsections (A), (B) and (C) of this Section 14 via electronic copies, secure internet access or paper copies sent to the requesting Party without charge, unless such request is unduly burdensome on the Party upon whom such request is made. In such case, such documents or information may be made available for inspection only at the offices of the Party in possession of such documents or information with copies to be made available for a reasonable charge. The Parties recognize such information may be proprietary and/or business confidential and agree, to the extent consistent with law, to treat the same as such.

SECTION 15. Bonds; Trust Indenture; Power Sales Contract**.** (A) AMP is hereby requested and authorized by ~~the Participants~~ CVEC to issue Bonds for the purpose of paying Project Costs as well as all or any part of the costs of planning, engineering, siting, permitting, acquiring, constructing, improving, repairing, restoring, renewing or refurbishing as provided in Section 4(A) hereof, including, without limitation, acquisition of and arrangements for Fuel, reimbursement of all Developmental Costs or refunding any outstanding Bonds, all upon such terms and pursuant to one or more Trust Indentures having such terms as AMP, in its sole discretion and exclusive judgment, deems necessary or desirable to enable AMP to fulfill satisfactorily its obligations hereunder; provided, however, that AMP shall not issue Bonds having a final maturity date extending beyond the earlier of December 31, 2047 or the useful life of the Project, as estimated, in a report or certificate of an independent engineer or engineering firm or corporation having a national reputation for experience in electric utility matters. All Bonds, any Trust Indenture, and all revenues and other funds of AMP allocable to ~~the Participants~~ CVEC and to this Power Sales Contract, other than the Service Fee, shall be separate and apart from all other borrowings, indentures, revenues, and funds of AMP~~.~~ except, to the extent determined appropriate by AMP, such borrowings, indentures, revenues and funds associated with the Other Power Sales Contract,, and AMP shall not pledge or assign any of its right, title or interest in, to or under any of the foregoing, this Power Sales Contract or any Power Sales Contract Resources to the extent allocable to CVEC, or otherwise make available any thereof, to secure or pay any indebtedness or obligation of AMP other than as expressly permitted by this Power Sales Contract.

(B) Subject to the limitations contained in paragraph (A), AMP ~~is hereby~~ has been requested and authorized by ~~the~~ certain Other Participants electing pursuant to Section 5(K)(i) ~~hereof~~ of the Other Power Sales Contract to issue one or more separate series of ~~Bonds~~ bonds for the

purpose of providing funds to pay the obligations allocable to such Participants incurred in connection with the Buy-Out. Any such ~~Bonds~~ bonds shall be secured solely by the revenues charged to such Participants and collected by AMP pursuant to Section 5(A)(viii) of similar agreements hereto and allocable to the ~~Bonds~~ bonds issued to finance the Buy-Out. All revenues allocable to the ~~Bonds~~ bonds issued to finance such Buy-Out costs shall be kept separate and apart from all other borrowings, indentures, revenues and funds of AMP, including the borrowings referenced in paragraphs (A) and (C) of this Section 15.

(C) Subject to the limitations contained in subsection (A) of this Section 15 AMP ~~is hereby~~ has been requested and authorized by ~~the~~ certain Other Participants electing pursuant to Section 5(K)(ii) ~~hereof~~ of similar agreement hereto to issue one or more separate series of ~~Bonds~~ bonds for the purpose of providing funds to pay all or a portion of, as the case may be, the stranded costs attributable to AMPGS and allocable to such Participants. Any such ~~Bonds~~ bonds shall be secured solely by the revenues charged to such Participants and collected by AMP pursuant to Section 5(A)(viii) of similar agreements hereto and allocable to the ~~Bonds~~ bonds issued to finance the AMPGS stranded costs. All revenues allocable to the ~~Bonds~~ bonds issued to finance such AMPGS stranded costs shall be kept separate and apart from all other borrowings, indentures, revenues and funds of AMP, including the borrowings referenced in paragraphs (A) and (B) of this Section 15.

SECTION 16. Disposition or Termination of the AMP Fremont Energy Center or other Power Sales Contract Resources**.** For so long as any Bonds are outstanding, except as permitted in subsections (D) and (E) of Section 3, subsection (E) of Section 4 and this Section 16, AMP shall not sell or otherwise dispose of, in whole or in part, its ownership interest in any of the AMP Fremont Energy Center without the consent of a Super Majority of the Participants, provided, however, the sale to the Participant of an ownership interest in the Freemont Energy Center pursuant to Section 32 shall not be subject to the approval of the other Participants. This Section 16 shall not prohibit (i) a merger or consolidation or sale of all or substantially all of the property of AMP as permitted by Section 26, (ii) any sale, lease or other disposition or arrangement permitted by subsections (C) and (D) of Section 3 and subsections (D) and (E) of Section 4 or (iii) the mortgaging, pledging or encumbering of all or any portion of AMP's ownership interest in the AMP Fremont Energy Center or any other Power Sales Contract Resources pursuant to any Trust Indenture to secure any Bonds. Subject to the provisions of the Related Agreements, any facilities of the AMP Fremont Energy Center shall be terminated and AMP shall cause such facilities to be salvaged, discontinued, decommissioned, and disposed of or sold in whole or in part on such terms as both the AMP Board of Trustees and the Participants Committee determine to be reasonable and appropriate when:

(i) so required pursuant to the applicable Related Agreement; or

(ii) both the AMP Board of Trustees and the Participants Committee determine that AMP is unable to operate such facilities due to licensing or operating conditions or other similar causes; or

(iii) both the AMP Board of Trustees and the Participants Committee determine that such facilities are not capable of producing or delivering energy consistent with Prudent Utility Practice.

SECTION 17. Additional Covenants of the Participants. (A) ~~Each Participant~~ CVEC covenants and agrees to establish and maintain rates for electric capacity and energy and related services to its consumers which shall provide to ~~such Participant~~ CVEC revenues at least sufficient, together with other available funds, to meet its obligations to AMP under this Contract; to pay all other O&M Expenses; to pay all obligations, whether now outstanding or incurred in the future, payable from, or constituting a charge or lien on, the revenues of its Electric System; and to make any other payments required by law.

(B) ~~Each Participant~~ In the event AMP issues Bonds to finance Project Costs allocable to CVEC's PSCR Share and for so long as any such Bonds are outstanding, CVEC covenants and agrees that, except as permitted by subsection (C) of Section 26 hereof, it shall not sell, lease or otherwise dispose of all or substantially all of its Electric System except on 180 days' prior written notice to AMP and, in any event, shall not so sell, lease or otherwise dispose of the same unless AMP shall reasonably determine that all of the following conditions are met: (i) ~~such Participant~~ CVEC shall assign this Contract and its rights hereunder (except as otherwise provided in the last sentence of this subsection (B)) in writing to the purchaser or lessee of the Electric System and such purchaser or lessee, as assignee of rights and obligations of ~~such Participant~~ CVEC under this Contract, shall assume in writing all obligations (except to the extent theretofore accrued) of ~~such Participant~~ CVEC under this Contract or ~~such Participant~~ CVEC shall post a bond or other security, in either case reasonably acceptable to AMP, to assure its obligations hereunder are fulfilled and clauses (iv) (a), (b) and (c) are satisfied; (ii) if and to the extent necessary to reflect such assignment and assumption, AMP and such assignee shall enter into an agreement supplemental to this Contract to clarify the terms on which capacity and energy are to be sold hereunder by AMP to such assignee; (iii) the senior

debt of such assignee shall be rated in one of the four highest whole rating categories, without regard to sub-categories represented by + or – or similar designations, by at least one nationally recognized bond rating agency or if such entity is not rated, AMP and lender or agent thereof or any trustee under any Trust Indenture shall receive an opinion from a nationally recognized financial expert that the assignment does not materially adversely affect the security for any Bonds; and (iv) AMP shall have received an opinion or opinions of counsel of recognized standing selected by AMP stating that such assignment (a) will not adversely affect any pledge and assignment by AMP of this Contract or the revenues derived by AMP hereunder (other than the Service Fee~~ and amounts paid to AMP in respect of Buy-Out costs pursuant to Section 5(K)~~) as security for the payment of Bonds and the interest thereon, (b) is lawfully permitted under applicable law, and (c) will not adversely affect the regulatory or tax status of AMP or any Bonds. Notwithstanding the foregoing, if AMP reasonably determines that the assignment of this Contract, pursuant to the immediately preceding sentence in connection with the sale, lease or other disposition of ~~a Participant's~~ CVEC's Electric System, could reasonably be expected to result in any increase in the rates and charges to any of the remaining Participants for capacity and energy and associated Transmission Service made available under the Contract, AMP may, by delivery of written notice thereof sent no later than 120 days following receipt by AMP of notice pursuant to the immediately preceding sentence, refuse to approve such sale, lease or other disposition and, should ~~the Participant~~ CVEC nonetheless and in contravention of the provisions of this Contract proceed with such sale, lease or other disposition, terminate, effective upon such sale, lease or other disposition, all of ~~such Participant's~~ CVEC's rights under this Contract (except to the extent of any rights theretofore accrued); provided, however, that prior to the effective date of any such termination, AMP shall have arranged for the assignment

of ~~such Participant's~~ CVEC's rights (except as otherwise provided in the last sentence of this subsection) and obligations (except to the extent theretofore accrued) hereunder to another entity which assumes in writing all obligations of ~~such Participant~~ CVEC hereunder (except to the extent theretofore accrued) and which satisfies each of the conditions set forth in clauses (ii) through (iv) of the immediately preceding sentence; provided, further, that nothing contained in this subsection (B) shall be construed to prevent or restrict ~~any Participant~~ CVEC from issuing mortgage revenue bonds (subject to the provisions of subsection (E) of this Section 17) secured by a mortgage of the property and revenues of ~~such Participant's~~ CVEC's Electric System, including a franchise. ~~Each Participant~~ CVEC agrees to cooperate in effecting any assignment pursuant to the immediately preceding sentence. In no event shall any assignee of ~~a Participant's~~ CVEC's rights and obligations hereunder pursuant to this subsection (B) of Section 17, other than in the case of an assignment to another Participant, be entitled to exercise any of such ~~Participant's~~ CVEC's rights under Sections 3 (B) and (C), 4 (A) (iii), 5, 6, 7, 9, 12, 14, 15, 16, 17 (H) and any rights to vote or participate on the Participants Committee hereof, which rights are personal and inalienable and shall be deemed to terminate with the disposition of such ~~Participant's~~ CVEC's Electric System.

(C)~~Each Participant~~ CVEC covenants and agrees that it shall take no action the effect of which would be to prevent, hinder or delay AMP from the timely fulfillment of its obligations under ~~this Contract~~the Power Sales Contracts, any Related Agreement, any then outstanding Bonds or any Trust Indenture; provided, however, that nothing contained herein shall be construed to prevent or restrict ~~such Participant~~ CVEC from asserting any rights which it may have against AMP hereunder or under any provision of law, including institution of legal proceedings for specific performance or recovery of damages.

(D)~~Each Participant~~ CVEC covenants and agrees that it shall, in accordance with Prudent Utility Practice, (i) operate the properties of its Electric System and the business in connection therewith in an efficient manner, (ii) maintain its Electric System in good repair, working order and condition, and (iii) make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to its Electric System; provided, however, that this subsection (D) shall not be construed as requiring ~~such Participant~~ CVEC to expend any funds which are derived from sources other than the operation of its Electric System, although nothing herein shall be construed as preventing ~~such Participant~~ CVEC from doing so.

(~~E~~E)~~Each Participant~~ Except as set forth on Appendix K, CVEC covenants and agrees that it shall not issue bonds, notes or other evidences of indebtedness or incur lease or contractual obligations which are payable from the revenues derived from its Electric System superior to the payment of the O&M Expenses of its Electric System; provided, however, that nothing herein shall limit ~~such Participant's~~ CVEC's present or future rights (i) to incur lease or contractual obligations that, under generally accepted accounting principles, are operating expenses of its Electric System and that are payable on a parity with O&M Expenses or (ii) to issue bonds, notes or other evidences of indebtedness payable from revenues of its Electric System subject to the prior payment or provision for the payment of the O&M Expenses, including amounts payable under this Contract, of its Electric System.

(F)~~Each Participant~~ CVEC covenants and agrees that, not later than the date on which it issues bonds, notes or other evidences of indebtedness or incurs capital lease or take-or-pay contractual obligations which are payable from the revenues of its Electric System on a parity with O&M Expenses, it will provide to AMP, with a copy to the Participants Committee, of an

independent engineer's estimation that such issuance or incurrence will not result in total O&M Expenses and debt service in excess of the revenues of the Participant's Electric System, adjusted for any rate increases enacted by the Governing Body~~ prior to such issuance or incurrence, in the fiscal year immediately preceding the issuance of such obligations~~.

(G)~~Each Participant~~ CVEC agrees to use all commercially reasonable efforts to take all actions necessary or convenient to fulfill all of its obligations under this Contract and further agrees to cooperate in good faith with AMP to assist AMP in its compliance with keeping its non-member revenues below the level required by its status as a tax exempt organization under Section 501 (c) (12) of the Internal Revenue Code.

(H)~~Each Participant agrees that, prior to any assignment of its rights under this Contract pursuant to subsection (B) of this Section 17, it shall grant to AMP, for the benefit of the remaining Participants, a right of first refusal for a period of not less than one hundred twenty (120) days to match any *bona fide* offer for such assignment.~~ [Reserved]

~~(I) Each Participant that has noted in Appendix K an exception to subsection (B) (viii) of Section 2, or otherwise has some contractual or other legal impediment, to its payment obligation to AMP hereunder being O&M Expenses, covenants and agrees that it will in good faith endeavor to remove any such contractual or other legal impediments at the earliest possible time.~~

SECTION 18. Default**.** (A) In the event any payment due from any Participant under ~~this Contract~~ the Power Sales Contracts remains unpaid subsequent to the due date thereof, such event shall constitute a default hereunder and AMP may, upon fifteen (15) days prior written notice to and at the cost and expense of such defaulting Participant (i) withhold any payments otherwise due such Participant and suspend deliveries or availability of such defaulting Participant's PSCR Share to or on behalf of the defaulting Participant under this Contract, (ii) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to enforce any covenant, agreement or obligation against the defaulting Participant, and (iii) take any other action permitted by law to enforce this Contract or similar agreement hereto. Upon suspension of the rights of the defaulting Participant as provided in the immediately preceding sentence, AMP shall be entitled to and may sell or make available, from time to time, to any other person or persons any capacity or energy associated with the defaulting Participant's PSCR Share, and any such sale may be on such terms and for such period deemed necessary or convenient in AMP's judgment, which shall not be exercised unreasonably, to make such sale under then existing market conditions; provided, however, that no such sale shall be made for a period exceeding two (2) Months. Any such sale of such PSCR Share contracted for by AMP

under ~~this~~ subsection (A) of Section 18 of the Power Sales Contracts shall not relieve the defaulting Participant from any liability under ~~this Contract~~such contract, except that the net proceeds of such sale shall be applied in reduction of the liability (but not below zero) of such defaulting Participant under ~~this Contract~~such contract. If any default giving rise to the suspension of the rights, including the availability or delivery of capacity and energy of the defaulting Participant, has been cured in less than sixty (60) days subsequent to such default and payment has been made by the defaulting Participant to AMP of all costs and expenses incurred as a result of such default, the Participant which had been in default shall be entitled to the restoration of its rights, including a resumption of its rights to its PSCR Share or other service related to ~~this Contract~~such contract, subject to any sale to others of its PSCR Share made by AMP pursuant to ~~this~~ subsection (A) of Section 18 of the Power Sales Contracts. AMP shall promptly notify all Participants in writing of any default by any other Participant, which remains uncured for thirty (30) days or more.

(B) (i) If any Participant shall fail to pay any amounts due under ~~this Contract~~the Power Sales Contracts, or to perform any other obligation ~~hereunder~~thereunder, which failure constitutes a default under ~~this Contract~~ such contract and such default continues for sixty (60) days or more, AMP may, in addition to any other remedy available at law or equity, terminate the provisions of ~~this Contract~~ such contract insofar as the same entitle the Participant to a PSCR Share and during such default, the defaulting Participant shall not be entitled to any vote on the Participants Committee or any matter which requires a vote of the Participants; but the obligations of the Participant under ~~this Contract~~ such contract shall continue in full force and effect. AMP shall forthwith notify such Participant of such termination.

(ii) Upon the termination of entitlement to a PSCR Share as provided in paragraph (i) of ~~this~~ subsection (B) of the Power Sales Contracts, AMP shall attempt to sell the defaulting Participant's PSCR share first to other Participants, then to Members who are not Participants and then to other persons. In addition, ~~and~~under the Other Power Sales Contract, to the extent such defaulting Participant's obligations are not thereby fulfilled, each non-defaulting Participant shall purchase, for so long as such default remains uncured, a *pro rata* share of the defaulting Participant's entitlement to its PSCR Share which, together with the shares of the other non-defaulting Participants, is equal to the defaulting Participant's PSCR Share, in percentage (%), as set forth in Appendix A ("Step Up Power"); provided; however, that no such termination shall reduce the defaulting Participant's obligations under paragraph (iii) of this subsection (B); and provided further, however, that the sum of all such increases for each non-defaulting Participant pursuant to this paragraph (ii) of subsection (B) shall not exceed, without consent of the non-defaulting Participant, an accumulated maximum kilowatts equal to twenty-five percent (25%), or such lesser percentage as set forth in any Trust Indenture, of such non-defaulting Participant's initial PSCR Share in percentage (%) as shown in Appendix A prior to any such increases. AMP shall mail written notice, and may, at its option, also transmit the same by electronic means, to each non-defaulting Participant of the amount of any Step Up Power as soon as practicable. All Step Up Power Costs shall be determined consistent with and be treated as a part of Revenue Requirements pursuant to Section 5 of the Power Sales Contracts and shall be paid by the non-defaulting Participant in accordance with this Contract. Notwithstanding the foregoing provision of ~~this~~ Section 18 (B)(ii) of the Power Sales Contracts, within twenty (20) days after the notice of default by a Participant sent by AMP in accordance with Section 18 (A) of the Power Sales Contracts, any non-defaulting Participant may notify

AMP in writing of its election to purchase voluntarily Step Up Power under the terms and conditions of ~~this~~ Section 18 (B) of the Power Sales Contracts in any amount more than that which would otherwise be its *pro rata* share and up to the amount of the defaulting Participant's PSCR Share. Such purchase shall continue for so long as the default is not cured. To the extent the sum of such voluntary elections is greater than the amount of Step Up Power to be distributed, the same shall be distributed among the Participants so electing in proportion to the amounts requested. To the extent the sum of such voluntary elections is less than the defaulting Participant's PSCR Share, the remainder shall be distributed *pro rata* among the balance of the Participants as otherwise set forth ~~herein~~in Section 18 of the Power Sales Contracts. Non-defaulting Participants assuming Step-Up Power shall be entitled to exercise all voting rights associated with all amounts of Step Up Power taken or assigned. For avoidance of doubt, CVEC shall have no obligation under this Power Sales Contract to, but may voluntarily, purchase Step-Up Power in the case of a default by an Other Participant, and no Other Participant shall have any obligation under the Other Power Sales Contract to, but may voluntarily, purchase Step-Up Power, in the case of a default by CVEC.(iii) The fact that other Participants have assumed their obligations for Step Up Power Costs shall not relieve the defaulting Participant of its liability for payments owing with respect thereto and all Participants assuming such obligation (voluntarily or otherwise), either individually or as a member of a group, shall have a right of recovery from the defaulting Participant of all damages occasioned thereby, including all costs of recovery and attorney fees less any amounts recovered by operation of this Section 18. AMP, in consultation with the Participants Committee, may commence such suits, actions or proceedings, at law or in equity, including suits for specific

performance, as may be necessary or appropriate to enforce the obligations of ~~this Contract~~ the Power Sales Contracts against the defaulting Participant.

(C) In the event of default by a Participant in the payment of any of the sum or sums now or hereafter secured hereby, or in the performance of any of the covenants and conditions of ~~this Contract~~the Power Sales Contracts; or in the event Participant shall for any reason be rendered incapable of fulfilling its obligations ~~hereunder~~under such contract; or final judgment for payment of money shall be rendered against Participant which adversely affects its ability to fulfill its obligations ~~hereunder~~under such contract, and any such judgment shall not be discharged within 60 days from the entry thereof or an appeal shall not be taken therefrom or from the order, decree or process upon which, or pursuant to which, such judgment shall have been granted, or entered, in such manner as to stay the execution of, or levy under, such judgment, order, decree, or process or the enforcement thereof, or any proceeding shall be instituted with the consent or acquiescence of Participant for the purpose of effecting a compromise between Participant and its creditors, or for the purpose of adjusting the claims of such creditors pursuant to any Federal or State statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the Participant's rights under ~~this Contract~~such contract; or if (a) Participant is adjudged insolvent by a court of competent jurisdiction which assumes jurisdiction of Participant's Electric System, or (b) an order, judgment or decree be entered by any court of competent jurisdiction appointing, without the consent of Participant, a receiver or trustee of Participant or of the whole or any part of Participant's Electric System and any of the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof; or if Participant shall file a petition or answer seeking reorganization or any arrangement under the

Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof, which would place jurisdiction of Participant's Electric System in other than Participant; then, in addition to the remedies specified in subsections (A) and (B) of this Section 18, and any other remedy available under applicable law, including the remedy of specific performance, AMP shall have the right and power to, and may, at its sole option, by notice in writing to the Participant, apply for the appointment of a receiver of rents, income and profits of the Participant's Electric System received or receivable by Participant as a matter of right and as security for the amounts due AMP without consideration of the value of Participant's Electric System, or the solvency of any person or persons liable for the payment of such amounts, the rents, income and profits of the Participant's Electric System received or receivable by Participant being hereby assigned by Participant to AMP as security for payment of the sum or sums now or hereafter secured hereby.

(D) Anything in ~~this~~ Section 18 of the Power Sales Contracts to the contrary notwithstanding, if at any time before the entry of final judgment or decree in any suit, action or proceeding instituted by AMP on account of default as defined above, or before the completion of the enforcement of any other remedy under ~~this Contract~~ such contract or law, a defaulting Participant shall pay all sums then payable by their stated terms, and all arrears of interest, if any, upon said sums then outstanding and the charges, compensation, expenses, disbursements, advances and liabilities of AMP, and all other amounts then payable by Participant hereunder, and every other default of which AMP has notice shall have been remedied to the satisfaction of AMP, then AMP shall, unless such default continues for a period greater than one (1) year in which case AMP may, with the approval of its Board of Trustees and the Participants Committee, and to the extent a non-defaulting Participant has voluntarily

"stepped up" for all or a portion of such defaulting Participant's entitlement to its PSCR share pursuant to paragraph (B)(ii) of ~~this~~ Section 18 of the Power Sales Contracts, with the approval of such non-defaulting Participant, rescind and annul the declaration of default and its consequences, provided, however, that if any Participant has defaulted and all or any portion of such Participant's PSCR Share has become Step Up Power, such Participant shall cure such default by paying all arrearages and all liabilities otherwise owing due to such default, net of the proceeds of any sales pursuant to ~~this~~ Section 18 of the Power Sales Contracts and of the recovery of Step Up Power Costs, as hereinabove provided in ~~this~~ subsection (D) of the Power Sales Contracts, and such defaulting Participant shall also pay, as liquidated damages and not as a penalty in recognition of the difficulty in precisely measuring damages to the non-defaulting Participants caused by the defaulting Participant, an amount equal to the product of one hundred twenty-five percent (125%) of the defaulting Participant's PSCR Share of the Demand Charges paid by the non-defaulting Participants as Step Up Power Costs, multiplied by the "Prime Rate" as published in "Money Rates" in the *Wall Street Journal*, or, if in determination of AMP, the Prime Rate is no longer publicly available, then the prime rate values published in the Federal Reserve Bulletin, plus, in any case, two percent (2%). Such amount shall then be paid to the non-defaulting Participants in proportion to their respective payments of Step Up Power Costs. In addition to the foregoing, if the defaulting Participant shall have elected to finance its share of the cost of the Buy-Out pursuant to subsection (K)(i) of Section 5 of the Other Power Sales Contract and/or, if an AMPGS Participant, its share of stranded costs of AMPGS pursuant to subsection (K)(ii) of Section 5 of the Other Power Sales Contract, the defaulting Participant shall have also paid any amounts due and owing AMP, if any, as a result of its default under ~~this~~

~~Contract~~such agreement. However, no such rescission or annulment shall extend to or affect any subsequent default or impair any right consequent thereon.

(E) AMP shall provide timely reports to the Participants Committee of any Participant defaults and actions taken by AMP pursuant to ~~this~~ Section 18 of the Power Sales Contracts.

(F) Should AMP default of any of its obligations ~~hereunder~~ under the Power Sales Contracts and such default continues for a period of thirty (30) days, any Participant or the Participants Committee may give AMP written notice of such default. Subject to the provisions of any Trust Indenture, should AMP not cure such default, or provide the Participants Committee with a satisfactory plan to cure such default within sixty (60) days of such written notice, then by the affirmative vote of a Super Majority of the Participants, AMP may be directed to contract with a third party to perform whatever duties or obligations which are in default. The costs of such contract shall be included in Revenue Requirements.

SECTION 19. Waiver of Default. No waiver at any time by any Party to this Contract of its rights with respect to any default of any other Party hereto, and no grant by any Party to any other Party of an extension of time on any payments hereunder or with respect to any other matter arising in connection with such Contract, shall be considered a waiver with respect to any subsequent default, right or matter.

SECTION 20. Relationship to and Compliance with Other Instruments**.** It is recognized by the Parties hereto that AMP in undertaking, or causing to be undertaken, the planning, engineering, permitting, licensing, financing, construction, refurbishment, acquisition, operation, acquisition of and arrangements regarding Fuel, and maintenance of the AMP Fremont Energy Center and any ~~other~~ Other Power Sales Contract Resources must comply with the requirements of each Trust Indenture, the Related Agreements and all licenses, permits and regulatory approvals necessary therefor, and it is therefore agreed that this Contract is made subject to the terms and provisions of each Trust Indenture, the Related Agreements and all such licenses, permits, and regulatory approvals.

SECTION 21. Modification or Amendment of this Contract**.** Except to the extent otherwise provided herein with respect to changes in the Project, the Appendices hereto and supplemental agreements entered into pursuant to this Contract, this Contract shall not be amended, modified or otherwise changed except by written instrument executed and delivered by AMP and ~~each of the Participants~~CVEC; provided, however that this Contract shall not in any event be amended, modified or otherwise changed in any manner that will materially adversely affect the security afforded by the provisions of this Contract for the payment of the principal, interest, and premium, if any, on the Bonds, except as, and to the extent, permitted by any Trust Indenture.

SECTION 22. Opinions as to Validity**.** ~~Each Participant~~CVEC, upon execution and delivery of this Contract, shall furnish to AMP, substantially in the form of Appendix H hereto, an opinion of counsel retained or employed by ~~such Participant~~ CVEC and acceptable to AMP. Upon request by AMP made from time to time after the Effective Date, each Participant shall furnish AMP with a letter from the attorney or firm of attorneys which rendered the foregoing opinion, or such other attorney as shall be acceptable to AMP, confirming, as of the date specified in such request, the foregoing opinion delivered upon execution and delivery of this Contract.

SECTION 23. Notices and Computation of Time**.** Any notice or demand by ~~any Participant~~ CVEC to AMP under this Contract shall be deemed properly given if mailed postage prepaid and addressed to AMP as set forth in Appendix J or if receipt is had or acknowledged in the case of a delivery described in clause (ii) of this Section 23. Any notice or demand by AMP to ~~any Participant~~ CVEC under this Contract shall be deemed properly given if mailed postage prepaid and addressed to ~~the Participant~~ CVEC at the address furnished to AMP in connection with the execution and delivery of this Contract and set forth on Appendix J or if receipt is had or acknowledged in the case of a delivery described in clause (ii) of this Section 23. In computing any period of time from any such notice, such period shall commence (i) on the same Business Day that the notice is issued if hand delivered, (ii) at Noon on the first Business Day following the date such notice was issued if delivered by electronic mail, or facsimile or (iii) at Noon of the second Business Day following the date such notice was issued if sent by overnight mail, or (iv) at Noon of the third Business Day following the date such notice was issued if sent by regular mail. The name and address to which such notice or demand is directed may be changed at any time and from time to time by any Party giving notice as above which shall then be updated on Appendix J.

SECTION 24. Governing Law. This Contract and any controversies arising hereunder are to be construed and determined in accordance with the law of the State of Ohio applicable to contracts executed within and to be wholly performed within such State; provided, however, ~~that if Participant~~ because CVEC is domiciled in a state other than Ohio, the power and authority of ~~such Participant~~ CVEC to enter into this Contract (and the required procedures with respect thereto) shall be construed in accordance with the laws of ~~such domiciliary state~~Virginia.

SECTION 25. Severability**.** If any section, subsection, clause or provision of this Contract shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Contract shall be unaffected by such adjudication and all the remaining provisions of this Contract shall remain in full force and effect as though such section, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not been included herein.

SECTION 26. Assignment of Contract**.** (A) This Contract shall inure to the benefit of and shall be binding upon the respective successors and assigns of the Parties to this Contract; provided, however, that (i) except for any assignment by AMP authorized by subsections (D) and (E) of Section 3 and subsection (E) of Section 4 or subsection (B) of this Section 26, neither this Contract nor any interest herein shall be transferred or assigned by AMP except with the consent of a Super Majority of the Participants, which consent shall not be unreasonably withheld, and (ii) except for an assignment by a Participant with the consent of AMP in accordance with subsection (C) of this Section 26~~ or~~, an assignment in connection with the sale, lease or other disposition of all or substantially all of a Participant's Electric System as provided in Section 17(B) hereof or, subject to Section 26(E), the pledge, mortgage or assignment of a security interest in the Participant's right, title and interest in this Contract to the Participant's lender(s), neither this Contract nor any interest herein shall be transferred or assigned by any Participant.

(B)~~Each Participant~~ CVEC acknowledges and agrees that AMP may sell, lease or otherwise dispose of all or substantially all of its property and assets to or merge into or consolidate with, any other entity which shall assume all of AMP's obligations hereunder or may, in order to facilitate the provisions of subsections (D) and (E) of Section 3 and subsection (E) of Section 4, be required to undertake such sales, leases, assignments or the like, and that AMP may assign and pledge to any lender, or agent thereof or any trustee or similar fiduciary designated in any Trust Indenture, all, or any interest in, its right, title, and interest in and to this Contract, including all payments to be made to AMP under the provisions of this Contract (other than the Service Fee) as security for the payment of any Bonds, and, upon such assignment, pledge and delivery, AMP may grant to such lender, or agent thereof or trustee any of AMP's

rights and remedies herein and thereupon any reference herein to AMP shall be deemed, to the extent of such rights and remedies so granted and with the necessary changes in detail, to include such lender, or agent thereof or trustee which shall be a third party beneficiary of the covenants and agreements of such Participant herein contained.

(C)~~Any Participant~~ CVEC may assign to any entity this Contract and its rights hereunder (except as otherwise provided in the last sentence of this subsection) if all of the following conditions are met: (i) AMP consents in writing to such assignment, which consent shall not be unreasonably withheld; (ii) the assignment shall be evidenced by a written instrument pursuant to which the assignee shall assume all obligations (except to the extent theretofore accrued) of ~~such Participant~~ CVEC under this Contract or ~~such Participant shall post~~ CVEC posts an acceptable bond or other reasonably acceptable security to assure its obligations hereunder are fulfilled and clauses (vi) (a), (b) and (c) of this subsection (C) are satisfied; (iii) if and to the extent necessary to reflect such assignment and assumption, AMP and such assignee shall enter into an agreement supplemental to this Contract to clarify the terms on which capacity and energy are to be sold hereunder by AMP to such assignee; (iv) the senior debt of such assignee shall be rated in one of the four highest whole rating categories, without regard to sub-categories represented by + or – or similar designations, at least one nationally-recognized bond rating agency; (v) in the opinion of a nationally recognized financial expert acceptable to AMP, such assignment will not materially adversely affect the security afforded by the provisions of this Contract for the payment of the principal, interest and premium, if any, on the Bonds; and (vi) AMP shall have received an opinion or opinions of counsel of recognized standing selected by AMP stating that such assignment (a) will not adversely affect the pledge and assignment of this Contract or the revenues derived by AMP hereunder (other than the Service Fee) as

security for payment of Bonds and the interest thereon, (b) is lawfully permitted under the law of ~~the Participant's~~ CVEC's domicile state, and (c) will not adversely affect the regulatory or tax status of AMP or any Bonds or be inconsistent with the provisions of subsection (A) of Section 32. AMP shall not consent to the assignment of this Contract pursuant to the immediately preceding sentence unless AMP and the Participants Committee reasonably determine that such assignment is not expected to result in any increase in the rates and charges to any of the remaining Participants for capacity and energy or that the Participants are otherwise expected to be made whole. Nothing contained in this subsection (C) shall be construed to prevent or restrict ~~any Participant~~ CVEC from issuing ~~mortgage revenue bonds (subject to the provisions of subsection (E) of Section 17)~~ debt secured by a mortgage of the property and revenues of ~~such Participant's~~ CVEC's Electric System, including a franchise or, subject to clause (E) below, from assigning a security interest in its right, title and interest in this Contract to its secured lenders. In no event shall any assignee of ~~any Participant's~~ CVEC's rights and obligations hereunder pursuant to this subsection (C), other than in the case of an assignment to another Participant be entitled to exercise any of ~~such Participant's~~ CVEC's rights under subsections (B) and (C) of Section 3, clause (A) (iii) of subsection A of Section 4, subsections (A) and (E) of Section 5, Sections 6, 7, 9, 12, 14 and 16, and subsection (H) of Section 17 and any rights to vote or participate on the Participants Committee, which rights are personal and inalienable and shall be deemed to terminate with the assignment of ~~such Participant's~~ CVEC's rights under this Contract.

(D)~~Each Participant~~ CVEC agrees that, prior to any assignment of its rights under this Contract pursuant to subsection (C) of this Section 26, it shall grant to AMP a right of first refusal

for a period of not less than 180 days for the benefit of the remaining Participants, to match any *bona fide* offer for such assignment.

(E) CVEC, without the approval of AMP or the other Participants, may assign, transfer, mortgage or pledge its right, title and interest in this Contract to create a security interest for the benefit of its lenders, including the United States of America, acting through the Administrator of the Rural Utilities Service (the "Administrator"). Thereafter, the Administrator, without the approval of AMP or the Participants, may (1) cause this Contract to be sold, assigned, transferred or otherwise disposed of to a creditworthy third party pursuant to the terms governing such security interest, or (2) if the Administrator first acquires this Contract pursuant to 7 U.S.C. § 907, sell, assign, transfer or otherwise dispose of this Contract to a creditworthy third party; provided, however, that in either case (a) CVEC is in default of its obligations to the Administrator that are secured by such security interest and the Administrator has given the other Parties to this Contract notice of such default; and (b) the Administrator has given AMP thirty (30) days prior notice of its intention to sell, assign, transfer or otherwise dispose of this Contract indicating the identity of the creditworthy third-party assignee or purchaser. Without the consent of AMP or the other Participants, no such permitted sale, assignment, transfer, pledge or other disposition shall release or discharge Participant from its obligations under this Contract, which consent shall not unreasonably be withheld or delayed. Any transferee or assignee of the rights of a Party shall be subject to all terms and conditions of this Contract to the same extent as though such transferee or assignee were an original Party

SECTION 27. Beneficiaries**.** Subject to the provisions of Section 31, this Contract shall constitute a binding agreement between AMP and ~~each of the Participants~~CVEC. Other than a lender or agent thereof or a trustee or creditor, but only to the extent for either specifically set forth in any Trust Indenture in the event of any default by ~~a Participant~~ CVEC under this Contract and as a consequence, a default by AMP under such Trust Indenture, there shall be no third party beneficiaries to this Contract.

SECTION 28. Survivorship of Obligations**.** The termination of this Contract shall not discharge any Party hereto from any obligation it owes to any other Party under this Contract by reason of any transaction, loss, cost, damage, expense, or liability which shall occur or arise (or the circumstances, events, or basis of which shall occur or arise) prior to such termination. It is the intent of the Parties hereby that any such obligation owed (whether the same shall be known or unknown at the termination of this Contract or whether the circumstances, events, or basis of the same shall be known or unknown at the termination of this Contract) shall survive the termination of this Contract.

SECTION 29. Dispute Resolution. (A) The Parties agree to negotiate in good faith to settle any and all disputes arising hereunder. Representatives of the Participants Committee and AMP Board of Trustees shall participate in any such negotiations.

(~~B~~B) Good faith mediation shall be a condition precedent to the filing of any litigation in law or equity by any Party against any other Party relating to this Contract except injunctive litigation necessary solely to restrain or cure an imminent threat to the public or employee safety. Before the remedies provided for in this Section 29 may be exercised by any Party, such Party shall give written notice to the other ~~Parties~~ Party that such Party believes that an event of default or impasse under this Contract may have occurred, specifying the circumstances constituting the event of default or impasse in sufficient detail that the other ~~Parties~~ Party will be fully advised of the nature of the event of default or impasse. The responding Party shall prepare and serve a written response thereto within ten (10) Business Days of receipt of such notice.

(C) The Parties shall attempt to resolve the controversy by engaging a single mediator, experienced in the subject matter, to mediate the dispute. The mediator shall be mutually selected by the Parties to the controversy and conduct mediation at a location agreed upon by the Parties or absent agreement, by the mediator. Within two (2) Business Days of selection, the mediator shall be furnished copies of the notice, this Contract, response and any other documents exchanged by the Parties. If the Parties and the mediator are unable to settle the same within thirty (30) days from selection, or such other time as the Parties agree, the mediator shall make a written recommendation as to the resolution of the dispute. Each Party, in its sole discretion, shall accept or reject such recommendation in writing within ten (10) Business Days. Should the Parties be unable to agree upon a single mediator within five (5) Business Days of the written response of the responding Party, any Party or the Parties jointly shall

petition the Presiding Judge of the Court of Common Pleas of Franklin County Ohio, to appoint a mediator, experienced and knowledgeable in the matters which are the subject of the dispute. Notwithstanding the preceding sentence, the Parties reserve the right to file suit or pursue litigation in any court that is otherwise proper with respect to jurisdiction and venue. The Parties' consent to selection of a mediator by the Franklin County Court of Common Pleas shall not constitute consent to jurisdiction of such court or waiver of defenses as to venue or jurisdiction. The costs of the Mediator and the mediation shall be shared equally by the Parties to the dispute.

(D) The Parties may mutually agree to waive mediation or subsequent to mediation waive their right to litigate in court and, in either case, submit any dispute hereunder to binding arbitration, if permitted by law, before one or more arbitrators pursuant to the Commercial Arbitration Rules of the American Arbitration Association or such other arbitration procedures to which they may agree. Such agreement shall be in writing and may otherwise modify the procedures set forth in this Section 29 for resolving any particular dispute.

(E) Nothing in this Section 29 shall be construed to affect jurisdiction or venue over any dispute that is otherwise appropriate under law, except to the extent the Parties mutually arbitrate pursuant to subsection (D) of this Section 29.

SECTION 30. Liability**.** (A) AMP shall not be responsible for the receipt, transmission, control, use, application, or distribution of electric power and energy under this Contract beyond any Secondary Point of Delivery and shall not, in any event, be liable for damage or injury to any person or property whatsoever arising, accruing, or resulting from, in any manner, the receipt, transmission, control, use, application, or distribution of said electric power and energy beyond the interconnection with another entity of any facilities owned and operated by AMP.

(B) No recourse shall be had against any individual member of the Utility Governing Body of any Participant or any individual Member of the AMP Board of Trustees or the Participants Committee, or their respective representatives, or any officer, employee or other agent of any Participant or AMP, past, present or future, either directly or indirectly, whether by virtue of any penalty or otherwise, for any claim based upon or arising out of this Contract or the obligations of the Parties hereunder, all such liability, if any, being by the execution and delivery of this Contract specially waived and released; provided, however, the foregoing shall not relieve any individual from the performance of any official duty by law.

SECTION 31. Term of Contract**.** (A) This Contract shall become effective, if at all, upon the date, not later than ~~June 15~~July 27, 2011 (or such later date as approved by the AMP Board of Trustees), upon which ~~counterparts of~~ (i) CVEC and AMP shall execute this Contract, (ii) the same has been approved by the Rural Utilities Service, and (iii) agreements similar to this Power Sales Contract shall have been executed and delivered by the Participants which shall have agreed by such execution to purchase, in the aggregate, not less than a nominal four hundred sixty-one (461) MW of Base Capacity and associated energy unless an amount between four hundred ten (410) MW) and four hundred sixty (460) MW of Base Capacity is approved by the AMP Board of Trustees pursuant to ~~this Contract~~ the Power Sales Contracts ("Effective Date"); provided, however, that any Member of AMP or other municipal electric systems~~ or~~, joint action agencies comprised of Political Subdivisions or rural electric cooperatives that operate Electric Systems that execute an agreement similar to this Contract subsequent to the Effective Date may nonetheless become a Participant upon execution so long as the same (i) is not inconsistent with any Trust Indenture and (ii) is approved by the Participants Committee and AMP's Board of Trustees before December 31, 2011. Notwithstanding the foregoing and the representations of the Participants herein, in the event it is ultimately determined that any Participant failed duly and validly to execute and deliver ~~this~~ Power Sales Contract or an agreement similar hereto or that this Power Sales Contract or an agreement similar hereto, or any portion hereof or thereof, is invalid or unenforceable with respect to any Participant for any reason whatsoever, such determination shall in no way affect the commencement, term, validity or enforceability of this Power Sales Contract with respect to ~~any other Participant~~ CVEC or AMP or relieve any other Participant of its obligation under subsection (B) of Section 18.~~.~~

(B) This Contract shall remain in effect until the earlier of the date upon CVEC purchases an ownership interest in the Fremont Energy Center pursuant to Section 32 and December 31, 2047, and thereafter, unless otherwise required by law, until (i) the date the principal of, premium, if any, and interest on all Bonds have been paid or deemed paid in accordance with any applicable Trust Indenture; and (ii) a Super Majority of the Participants recommends this Contract and any agreement similar hereto be terminated; provided, however, that each Participant shall remain obligated to pay to AMP its respective share of the costs of terminating, discontinuing, disposing of, and decommissioning the AMP Fremont Energy Center and provided further, however, that the requirements of subsection (B)(i) of the Power Sales Contracts are satisfied. In the event that a Super Majority of the Participants does not elect to terminate this Contract and any agreement similar hereto, each Participant that so elects may continue to receive or have available its PSCR Share of the capacity and energy available to AMP from the AMP Fremont Energy Center at rates which reflect the lack of payments with respect to Bonds pursuant to subsection (A) (viii) of Section 5 and any Participant that does not so elect may discontinue taking or having available any capacity and energy hereunder and shall have no other liability hereunder except as specified in this Section 31 (B). Neither termination, cessation of taking capacity and energy hereunder, nor expiration of this Power Sales Contract shall affect any accrued right, liability or obligation hereunder.

SECTION 32. Tax Matters; Disclosure. (A) (i)Each Participant acknowledges that it is the intention of (a) AMP to utilize, to the maximum extent possible, the proceeds of Bonds the interest on which is excluded from gross income for Federal income tax purposes ("Tax-Exempt Obligations") under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), to finance the costs of the Project and related costs and to finance the payment or prepayment for Fuel for the Project, and (b) the Participants to enable AMP to issue Bonds that are Tax-Exempt Obligations. Alternatively, and to the extent provided for under federal legislation and available with respect to the Project and related costs and Fuel for the Project, AMP and Participants may issue other tax-advantaged obligations to finance the costs of the Project and related costs and Fuel for the Project, such as, but not limited to, qualified tax credit bonds under Section 54A or similar successor provisions of the Code and/or Build America Bonds under Section 54AA or similar successor provisions of the Code (collectively with Tax-Exempt Obligations, "Tax-Advantaged Obligations"). Each Participant acknowledges that at any time that AMP issues Tax-Advantaged Obligations, each Participant must expect to own and not expect to sell or otherwise dispose of or change the use of its rights to output of the Project prior to the final maturity date of the respective Tax-Advantaged Obligations.Conversion to Ownership Interest. The Parties agree that CVEC and AMP have the option, without the consent of the other Participants, for AMP to sell and CVEC to purchase an ownership interest in the Fremont Energy Center under the terms and conditions to be agreed upon between CVEC and AMP.

~~(ii) Each Participant acknowledges that output contracts with nongovernmental persons for the purchase of electricity produced by a generating facility financed with Tax-Advantaged Obligations may result in private business use of such generating facilities, that contracts with nongovernmental persons for transmission and distribution services financed with Tax-Advantaged Obligations may result in private business use of such transmission and distribution facilities and that only a limited amount of private business use is permitted under the Federal income tax laws addressing Tax-Exempt Obligations and certain other Tax-Advantaged Obligations.~~

~~(iii) Each Participant hereby represents, warrants and covenants that, notwithstanding any other provisions of this Power Sales Contract, it will take all actions necessary to enable AMP to issue Bonds as Tax-Advantaged Obligations to finance the Project and related costs and facilities and Fuel for the Project.~~

~~(iv) Each Participant represents, warrants and covenants that it will not take any action (including but not limited to entering into output contracts), or fail to take any action, that would adversely affect the tax advantaged status of any Tax-Advantaged Obligations. Each Participant represents, warrants and covenants that its interest in the Project will be used for the governmental purpose of such Participant while such Participant owns rights to output of the Project. In addition, each Participant represents, warrants and covenants that, to the extent applicable, it will take no action (including but not limited to entering into output contracts) or fail to take any action which action or failure would cause the Tax-Advantaged Obligations issued by AMP to become private activity bonds, including qualified 501(c)(3) bonds, and it will not dispose of or change the use of its Electric System unless an opinion of nationally recognized bond counsel acceptable to AMP is received stating that such action will not have an adverse effect on the tax advantaged status of Bonds issued as Tax-Advantaged Obligations.~~

~~(v) Each Participant represents, warrants and covenants that it will establish reasonable procedures to ensure that no action is taken by it that would cause any Bonds issued as Tax-Advantaged Obligations to meet, to the extent applicable, the private business use test or the private loan test of Section 141 of the Code and to ensure continued qualification of the Bonds issued as Tax-Advantaged Obligations.~~

~~(vi) Each Participant, to the extent such Participant has not opted out of such Fuel related financing, further represents, warrants and covenants that, to comply with tax requirements relating to the financing of Fuel for the Project with proceeds of Tax-Advantaged Obligations, (a) in the case of prepayment bonds issued under the safe harbor in the U.S. Treasury regulations, at least ninety percent (90%) of its Power Sales Contract Resources will be furnished to retail customers of such Participant located in the service area of such Participant. "Service area" for purposes of the preceding sentence means (1) any areas throughout which the Participant provided, at all times during the five (5) year period ending on the issue date of the applicable Tax-Advantaged Obligations, electricity distribution service and (2) any area recognized as the service area of the Participant under state or Federal law, and (b) in the case of prepayment bonds issued under the safe harbor under Section 148(b)(4) of the Code, all of the Power Sales Contract Resources will be used serve the annual average amount consumed by customers of the Participant during a 5-calendar year testing period in the service area of the participant. "Service area" for purposes of the preceding sentence means any area throughout which such Participant provided at all times during the testing period (X) electricity distribution services, (Y) is any area within a county contiguous to the area described in (X) in which retail customers of such utility are located if such area is not also served by~~

~~another utility providing electricity services, and (Z) any area recognized as the service area of such utility under State or Federal law.~~

~~(vii) (a) Each Participant acknowledges that, with certain exceptions, Section 141(d) of the Code currently provides that governmental tax-exempt bonds cannot be used to finance the acquisition of "nongovernmental output property." Nongovernmental output property is any property which before such acquisition was "used" or "held for use" by a person other than a governmental unit in connection with an output facility (e.g., FirstEnergy, the seller of the AMP Fremont Energy Center). Exceptions from the above rule are provided for energy consumed in Participants' Qualified Services Areas and Qualified Annexed Areas. Each Participant acknowledges that AMP intends to issue Bonds as Tax-Exempt Obligations to finance the Project by utilizing the exceptions for "Qualified Service Areas" and "Qualified Annexed Areas" and that if a Member intending to be a Participant cannot establish a Qualified Service Area including any Qualified Annexed Areas sufficient to ensure that at least 95% of its PSCR Share will be consumed in its Qualified Service Area including any Qualified Annexed Areas, it may not be eligible to participate in this Power Sales Contract. As used in this paragraph, "Qualified Service Area" is the area throughout which the Participant provided electricity at all times during the prior 10 years prior to the date AMP acquires the Project, and "Qualified Annexed Area(s)" is any area if (1) such area is contiguous to, and annexed for general governmental purposes into the Qualified Service Area of such Participant, (2) output from the Project is made available to all members of the general public in the annexed area, and (3) either (Y) the annexed area is not greater than 10 percent of the Qualified Service Area or (Z) the output capacity of the Participant increases by no more than 10 percent as a result of the acquisition of output property to service the annexed area.~~

~~(b) Each Participant represents, warrants and covenants that prior to the issuance of any Tax-Exempt Obligations for the Project, it will provide AMP such proof and documents as reasonably requested by AMP to establish the Participant's Qualified Service Area and any Qualified Annexed Areas.~~

~~(c) Each Participant represents, warrants and covenants that (I) at least ninety-five percent (95%) of its PSCR Share will be consumed in its Qualified Service Area, including any Qualified Annexed Areas, and (II) it will not take any action (e.g., allocations with respect to power consumed by its customers) inconsistent with treating at least ninety-five percent (95%) of its PSCR Share as consumed in its Qualified Service Area, including any Qualified Annexed Areas.~~

~~(viii) Each Participant agrees to assist and to cooperate with AMP regarding any matters related to its PSCR Share to the extent needed to maintain the tax status of Bonds issued as Tax-Advantaged Obligations, including but not limited to (a) delivering, prior to issuance of any Tax-Advantaged Obligations, executed certificates relating to the tax requirements applicable to Tax-Advantaged Obligations, and (b) providing to AMP periodic reports after the issuance of any Tax-Exempt Obligations dependent upon the covenants in paragraph (A) (vii) of this Section 32 confirming that at least ninety-five percent (95%) of its PSCR Share has in fact been consumed in its Qualified Service Area, including any Qualified Annexed Areas;~~

~~(ix) Each Participant acknowledges that AMP annually files Form 990 with the Internal Revenue Service and that currently information required to complete such form includes the percentage of tax-exempt financed property used in a private business use. Each Participant covenants that, if requested, it will provide AMP a report or data by the last day of February, of~~

~~each year setting forth any and all information required for AMP to complete IRS Form 990 or any future similar federal tax or other regulatory filing; and~~

~~(x) AMP agrees to assist the Participants in complying with the provisions of this subsection (A) of Section 32.~~

~~(B) (i) In order to facilitate the marketing of the Bonds secured by this Contract and to assist the underwriter(s) thereof in complying with their obligations under Rule 15c2-12 of the Securities Exchange Act of 1934, as amended from time to time (the "Rule"), AMP may, from time to time, designate certain Participants to be "obligated persons" within the meaning of the Rule. AMP will initially inform Participants of such designation prior to the initial issuance of any Bonds and, thereafter, annually not later than March 31. Each Participant designated as an obligated person shall furnish to AMP annually, no later than October 1 of each year and to the extent required for AMP to comply with its undertakings made pursuant to such Rule, (a) information updating the financial and operating data respecting the Participant and its Electric System, which data was presented or included by specific reference in an official statement or other comparable document of AMP prepared in connection with the offering of its Bonds, and (b) the Participant's audited financial statements relating to its Electric System, when they become publicly available, and prepared in accordance with generally accepted governmental accounting standards or otherwise as required by law.~~

~~(ii) In addition, each Participant, including, but not limited to, the Participants designated by AMP to be obligated persons, agrees to take such actions and sign such certificates as are deemed necessary by AMP to successfully market any Bonds secured by this Contract.~~

~~(C) If a Participant is a joint action agency, AMP and such Participant shall enter into a Related Agreement to modify, to the extent appropriate, the provisions of this Section 32 to reflect that all or a portion of the Participant's covenants in this Section 32 respecting~~

~~Participant's Power Sales Contract Resources shall be observed by its members to which the Participant's Power Sales Contract Resources shall be resold.~~

SECTION 33. Counterparts**.** This Contract may be executed and delivered in counterparts, each of which shall for all purposes be treated as the original hereof and all of which shall constitute a single agreement.

SECTION 34. AMP Fremont Energy Center Share Allocation. (A) As soon as practical after the Effective Date of this Power Sales Contract, as specified in Section 31 (A), there shall be ~~an initial~~ a meeting of the Participants Committee held at a time and place determined by AMP. Notice for such meeting shall be given to each Participant in writing, mailed, and at AMP's option, sent by electronic means, not less than seven (7) days prior to such meeting. In addition to such other business that shall properly be determined by the Participants Committee at such meeting in accordance with the Regulations, the Participants Committee shall adopt at such meeting or at a later meeting called for such purpose at such time as (i) one hundred percent (100%) of the AMP Entitlement is subscribed for by Participants, or (ii) in AMP's sole discretion up to twenty percent (20%) share of Base Capacity is "subscribed" for by AMP as an AMP asset and either retained by AMP, subscribed for by additional Participants pursuant to subsection A of Section 31 or made available to a Member or third party and, in any case, the balance of the AMP Entitlement, not less that eighty percent (80%) thereof, is subscribed for by Participants, an initial allocation of PSCR Shares among the Participants with due regard to, among other things, the total kW available from the AMP Entitlement and the amount requested by each Participant; provided, however, that in no case shall a Participant be allocated a PSCR Share greater than any maximum amount specified by such Participant pursuant to the legislative action by such Participant's Utility Governing Body authorizing execution of ~~this Power Sales Contract~~their respective similar agreements. Such finalized PSCR Shares, as adopted, shall be reflected on a revised Appendix A and shall total one hundred percent (100%) of PSCR Shares.

(B) If additional Participants are added to AMP Fremont Energy Center pursuant to Section 31, the PSCR Shares shall be reallocated accordingly and the requests of the

Participants for the same will be determined in accordance with methodologies contained herein and as approved by the Participants Committee; provided, however, that no Participant shall be allocated a PSCR share greater than that authorized by such Participant's Utility Governing Body.

SECTION 35. Other Agencies**.** AMP and the Participants recognize that certain Participants are, as of the Effective Date, and may continue to be in the future, existing joint action agencies, such as Delaware Municipal Electric Corporation, ~~or~~ members of existing joint action agencies, such as, Michigan South Central Power Agency and Blue Ridge Power Agency, or electric cooperatives, such as Central Virginia Electric Cooperative, Inc. AMP may enter into Related Agreements with such Participants and such agencies, pursuant to which such agencies may, by written agreement with AMP or between such agency and/or such agency's member Participants, act on behalf of its members or such Participants for the purposes of this Contract; provided, however, that nothing in such Related Agreements shall relieve any Participant of any obligation incurred hereunder.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed by their proper officers respectively, being thereunto duly authorized, and their respective corporate seals, if any, to be hereto affixed.

AMERICAN MUNICIPAL POWER, INC.

By_____

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

Approved as to form:

By_____

John W. Bentine
General Counsel

~~**_____ of _____,**~~
~~**_____**~~**CENTRAL VIRGINIA ELECTRIC COOPERATIVE, INC.**

By_____

Title:_____

Address for receipt of notice:

_____
_____
_____

~~**Please initial to indicate the Municipality desires to have the option to finance any costs as set forth on Appendix M, Parts 1 or 2.**~~

~~_____~~
~~_____~~
~~**Initial**~~

~~**Approved as to form:**~~

~~**By**_____~~

~~**Title:**_____~~

APPENDICES

TO

AMP FREMONT ENERGY CENTER

POWER SALES CONTRACT

APPENDIX A

SCHEDULE OF PARTICIPANTS AND PSCR SHARES

(Preliminary – To Be Finalized in Accordance with Section 34)

APPENDIX A

SCHEDULE OF PARTICIPANTS AND SHARES

1

Participant	Ordinance Amounts (kW)	~~SERVICE GROUP~~Requested Amounts (kW)	Recommended Allocations (kW)	Allocation (%) [TO COME]
-	-	-	-	
AMPGS Participants				
Amherst	~~NEASG~~1000	~~6245~~1000	880	
Arcadia	~~NCASG~~100	~~344~~100	88	
Arcanum	~~WASG~~600	~~1157~~600	528	
~~Beach City~~	~~NEASG~~ ~~578~~			
Beach City	578	578	509	
~~Bedford~~	~~VASG~~ ~~20068~~			
Bedford	7300	7300	6427	
~~Berlin~~	~~PASG~~ ~~1739~~			
Bradner	~~NWASG~~150	~~232~~150	132	
~~Blakely~~	~~PASG~~ ~~2903~~			
~~Bloomdale~~	~~NCASG~~ ~~511~~			
~~Bowling Green~~	~~NWASG~~ ~~8926~~			
~~Brewster~~	~~NEASG~~ ~~3568~~			
Brewster	3568	3568	3141	
Bryan	~~NCASG~~6000	~~12058~~6000	5282	
~~Carey~~	~~NCASG~~ ~~4745~~			
Carey	1400	1400	1233	
~~Catawissa~~	~~PASG~~ ~~398~~			
Celina	~~WASG~~7500	~~13019~~7500	6603	
Cleveland	~~NASG~~60000	~~82688~~60000	60000	
Clinton	1400	1400	1233	
Clyde	~~NCASG~~3000	~~15503~~3000	2641	
Coldwater	~~MASG~~20000	~~8547~~20000	17609	
~~Columbiana~~	~~NEASG~~ ~~4748~~			
Columbiana	4748	4748	4180	
~~Cuyahoga Falls~~	~~NEASG~~ ~~26256~~			
~~Columbus~~	~~CASG~~ ~~75469~~			
Cuyahoga Falls	26256	26256	23117	
~~Custar~~	~~NWASG~~ ~~187~~			
~~Danville~~	~~VASG~~ ~~68612~~			
~~Cygnet~~	~~NCASG~~ ~~357~~			
Danville	68,612	37,300	37300	
~~Dover~~	~~NCASG~~ ~~19625~~			
~~Deshler~~	~~NCASG~~ ~~1236~~			
Dover	19625	11000	11000	
~~Duncannon~~	~~PASG~~ ~~605~~			
Edgerton	~~NWASG~~600	~~1424~~600	528	
~~East Conemaugh~~	~~PASG~~ ~~562~~			

APPENDIX A

SCHEDULE OF PARTICIPANTS AND SHARES

Participant	Ordinance Amounts (kW)		~~SERVICE GROUP~~Requested Amounts (kW)	Recommended Allocations (kW)	Allocation (%) [TO COME]
~~Eldorado~~	~~WASG~~	~~370~~			
Eldorado		100	100	88	
~~Elmore~~	~~NWASG~~	~~831~~			
~~Ellwood City~~	~~PASG~~	~~5230~~			
Elmore		300	300	264	
~~Ephrata~~	~~PASG~~	~~13445~~			
Front Royal*		~~VASG~~5600	~~19172~~5600	4930	
~~Galion~~	~~NEASG~~	~~4723~~			
Galion		4723	2256	2256	
~~Genoa~~	~~NWASG~~	~~1049~~			
Genoa		1049	1049	924	
~~Grafton~~	~~NEASG~~	~~1549~~			
~~Girard~~	~~PASG~~	~~3241~~			
Grafton		1549	1549	1364	
~~Glouster~~	~~CASG~~	~~1188~~			
~~Goldsboro~~	~~PASG~~	~~685~~			
~~Greenwich~~	~~NCASG~~	~~1246~~			
Greenwich		350	350	308	
~~Haskins~~	~~NWASG~~	~~707~~			
~~Grove City~~	~~PASG~~	~~1800~~			
Haskins		707	707	622	
~~Hatfield~~	~~PASG~~	~~1141~~			
Hillsdale		~~MASG~~8200	~~3606~~8200	7219	
~~Holiday City~~	~~NWASG~~	~~1384~~			
Holiday City		752	752	662	
~~Hooversville~~	~~PASG~~	~~340~~			
Hubbard		~~NEASG~~5000	~~4467~~5000	4402	
Hudson		~~NEASG~~4000	~~11250~~4000	3522	
~~Jackson~~	~~CASG~~	~~9218~~			
Jackson		9218	7000	7000	
~~Jackson Center~~	~~WASG~~	~~941~~			
Jackson Center		376	376	331	
~~Lakeview~~	~~WASG~~	~~808~~			
~~Kutztown~~	~~PASG~~	~~3754~~			
Lakeview		808	808	711	
~~Lucas~~	~~NEASG~~	~~227~~			
~~Lansdale~~	~~PASG~~	~~6689~~			
Lucas		227	227	200	
~~Lebanon~~	~~SWASG~~	~~34447~~			
~~Lehighton~~	~~PASG~~	~~2180~~			
~~Lewisberry~~	~~PASG~~	~~249~~			
~~Lodi~~	~~NEASG~~	~~2000~~			
Marshall		~~MASG~~6100	~~968~~6100	5370	

APPENDIX A

SCHEDULE OF PARTICIPANTS AND SHARES

Participant	Ordinance Amounts (kW)		~~SERVICE GROUP~~ Requested Amounts (kW)	Recommended Allocations (kW)	Allocation (%) [TO COME]
Martinsville	~~VASG~~	5200	~~11114~~5200	4578	
~~Mendon~~	~~WASG~~	~~413~~			
Mendon		150	150	132	
~~Middletown~~	~~PASG~~	~~6902~~			
Minster	~~WASG~~	750	~~6718~~750	660	
~~Mifflinburg~~	~~PASG~~	~~2178~~			
~~Milan~~	~~NEASG~~	~~759~~			
Monroeville	~~NEASG~~	1000	~~2231~~1000	880	
Montpelier	~~NWASG~~	1500	~~3124~~1500	1321	
~~Napoleon~~	~~NWASG~~	~~7549~~			
Napoleon		7549	7549	6646	
New Bremen	~~WASG~~	3156	~~2378~~2300	2300	
New Knoxville	~~NCASG~~	300	~~979~~300	264	
~~New Martinsville~~	~~OASG~~	~~4302~~			
New Martinsville		4302	4302	3788	
~~Newton Falls~~	~~NEASG~~	~~2364~~			
~~New Wilmington~~	~~PASG~~	~~1902~~			
Newton Falls		2364	2364	2081	
Niles	~~NEASG~~	25000	~~16364~~25000	22011	
~~Oak Harbor~~	~~NWASG~~	~~1361~~			
Oak Harbor		500	500	440	
~~Oberlin~~	~~NEASG~~	~~2678~~			
Ohio City*	~~NCASG~~	130	~~474~~130	114	
~~Orrville~~	~~NCASG~~	~~20828~~			
Orrville		20000	20000	17609	
~~Pemberville~~	~~NWASG~~	~~277~~			
~~Painesville~~	~~NASG~~	~~5188~~			
Pemberville		300	300	264	
~~Philippi~~	~~OASG~~	~~3605~~			
~~Perkasie~~	~~PASG~~	~~3210~~			
Philippi		3605	3605	3174	
Pioneer	~~NWASG~~	600	~~1647~~600	528	
Piqua	~~WASG~~	11279	~~9023~~11279	9930	
~~Plymouth~~	~~NCASG~~	~~1092~~			
Plymouth		1092	300	300	
~~Prospect~~	~~NEASG~~	~~879~~			
~~Princeton~~	~~OASG~~	~~1124~~			
Prospect		615	615	541	
~~Quakertown~~	~~PASG~~	~~3570~~			
Republic	~~NCASG~~	100	~~220~~100	88	
~~Richlands~~	~~VASG~~	~~6837~~			
Richlands		1900	1900	1673	
~~Saint Clair~~	~~PASG~~	~~1024~~			

APPENDIX A

SCHEDULE OF PARTICIPANTS AND SHARES

Participant	Ordinance Amounts (kW)		SERVICE GROUPRequested Amounts (kW)	Recommended Allocations (kW)	Allocation (%) [TO COME]
Schuylkill Haven	PASG	1964			
Seville	NEASG	6268			
Royalton	PASG	423			
Seville		1600	1600	1409	
Shiloh	NCASG	295			
Shelby	NEASG	7625			
Shiloh*		100	100	88	
South Vienna	NEASG	342			
Smethport	PASG	1274			
South Vienna*		342	342	301	
St. Marys	NCASG	14513			
St. Clairsville	NCASG	5018			
St. Marys		8000	8000	7043	
Summerhill	PASG	274			
Tipp City		WASG4512	88344512	3972	
Sycamore	NCASG	392			
Union City		MASG1300	7721300	1145	
Versailles		WASG3000	41233000	2641	
Wadsworth	NEASG	14678			
Wadsworth		14500	14500	12766	
Wapakoneta	NCASG	13075			
Wampum	PASG	486			
Wapakoneta		3000	3000	2641	
Waynesfield	WASG	468			
Watsontown	PASG	717			
Waynesfield		468	400	400	
Weatherly	PASG	1000			
Wellington		NEASG3570	3570	3143	
Westerville	CASG	57035			
Wharton	PASG	311			
Williamstown	OASG	4674			
Woodsfield	NCASG	2127			
Woodsfield*		2127	2127	1873	
Woodville		NWASG100	800100	88	
		415,507	369,169	339,436	
Non- AMPGS Participants					
Yellow Springs	WASG	1648			
Yellow Springs*		500	500	440	
Zelienople	PASG	3276			
CVEC*		327624100	Total kW /	809,511 21219	

APPENDIX A

SCHEDULE OF PARTICIPANTS AND SHARES

Participant	Ordinance Amounts (kW)	SERVICE GROUP Requested Amounts (kW)	Recommended Allocations (kW)	Allocation (%) [TO COME]
		%24100		
100%St. Clairsville	Total Participants1000	1000	880	
Hamilton	30000	30000	26413	
Lebanon	15000	15000	13207	
Huron	100	100	88	
Lodi	1200	1200	1056	
Williamstown	4674	4674	4115	
Berlin	1739	870	870	
Ephrata	3900	3900	3434	
Girard	3241	2250	2250	
Hatfield	456	456	401	
Hooversville	340	340	299	
Lewisberry	133	133	117	
Summerhill*	274	274	241	
Smethport	1274	1274	1122	
DEMEC*	70000	70000	70000	
TOTAL (AMP & CVEC)	**573,438**	**525,240**	**485,588**	
MPPA*	**30000**	**30000**	**26412**	
TOTAL	**603,438**	**555,240**	**512,000**	

APPENDIX B

RATE SCHEDULE
(Preliminary – To Be Finalized After Commissioning)

~~**(For Estimates Please See Feasibility Study)**~~

[PLEASE SEE CONSULTING ENGINEER'S REPORT FOR COST ESTIMATES.]

AMERICAN MUNICIPAL POWER, INC.
FREMONT ENERGY CENTER

SCHEDULE 1

EFFECTIVE _____

PROJECT RATE SCHEDULE
POWER SALES CONTRACT RESOURCES
DEMAND (CAPACITY) AND ENERGY CHARGES

1. Applicability and Availability. This rate schedule is solely applicable to and available for the Participants under the terms and conditions of the Power Sales Contract.

2. Billing Demand. The Billing Demand in each billing period shall be the allocation of PSCR Share in kilowatts (kW) assigned to the Participants as set forth opposite their names in Appendix A.

3. Billing Energy. The Billing Energy in each billing period shall be the respective Participant's scheduled reservation of PSCR energy in kilowatt-hours (kWh) at the Delivery Point.

4. Rates and Charges. The charges for each billing period shall be determined as follows:

   a) Base Charges. Charges for the period shall include a Base Demand Charge and a Base Energy Charge as adopted from time to time in accordance with this Power Sales Contract.

      (i) Base Demand Charge for each billing period shall be $_____] per kW of Billing Demand.

      (ii) Base Energy Charge for each billing period shall be $_____] per kWh for all Billing Energy.

b) Service Fee. In addition to the Base Charges and Supplemental Transmission Service Charges, each Participant shall also pay the Service Fee.

5. Supplemental Transmission Service Charges. All charges with respect to Supplemental Transmission Service, including any and all (i) related RTO charges, including but not limited to congestion, (ii) distribution charges, (iii) losses, (iv) state and local taxes associated with the sale or delivery of Power Sales Contract Resources, and (v) any other charges, including those specified in Section 10 of the Contract, required to deliver power and energy to or on behalf of a Participant from the Point of Delivery to such Participant's Secondary Point of Delivery shall be billed separately to each Participant hereunder.

6. Power Cost Adjustment. AMP shall apply Power Cost Adjustment (PCA) factors during each billing period as charges or credits on the respective Participant's monthly invoice. Such PCA factors shall be determined for each billing period on the basis of the difference between the base costs of AMP's PSCR and actual costs incurred with respect to such PSCR. If an unanticipated rate change applicable to any PSCR becomes effective during any such billing period, the PCA for such period may be modified to reflect such rate change. Adjustments for variances in demand related costs and energy related costs shall be accounted for separately using Demand Cost Factor (DCF) and Energy Cost Factor (ECF).

a) Demand Related Costs. Demand related costs variance shall be computed for each billing period as the difference between AMP's base and actual fixed cost portion of Revenue Requirements. The resulting DCF factor for the billing period shall be calculated, to the nearest $0.001 per kilowatt, using the following formula:

DCF = DRC - _____ (Base Demand Charge)

MBD

Where:

DRC The total of all includable demand related costs for the billing period.

The costs includable in the Base Demand Charge and for the DRC for the current period are the fixed costs portion of Revenue Requirements for such period.

MBD The Monthly Billing Demand is the total kilowatt (kW) Billing Demand of the Participants for the period.

b) Energy Related Costs. Energy-related cost variance shall be computed for each billing period as the difference between AMP's base and actual variable cost portion of Revenue Requirements. The resulting ECF factor for the billing period shall be calculated, to the nearest $0.000001 (0.001 mill) per kilowatt-hour, using the following formula:

$$ECF = \frac{ERC}{MBE} - \underline{\qquad\qquad} \text{ (Base Energy Charge)}$$

Where:

ERC The total of all includable energy related costs for the billing period.

The costs includable in the Base ERC and the ERC for the current billing period are the variable costs portion of Revenue Requirements for such period.

MBE The Monthly Billing Energy is the total kilowatt-hour (kWh) Billing Energy of the Participants in the period.

c) Insofar as AMP is unable to use actual cost data and must rely on estimated costs, any dollar difference between actual and estimated costs shall be appropriately reflected in the calculation of the DCF and ECF factors in the next billing period.

d) The allocation of Revenue Requirements between fixed and variable shall be determined in accordance with a methodology developed by AMP and approved by the Participants Committee.

7. Fuel Cost Adjustment is an adjustment to reflect any differences in Fuel Costs due to any Participant's opt out of any Long Term determinations respecting Fuel.

8. Late Payment Charge will be assessed as set forth in Section 5 of this Contract.

9. Billing Period. The Billing Period shall be in accordance with Section 5 of this Contract.

Effective:_____

AMERICAN MUNICIPAL POWER, INC.
FREMONT ENERGY CENTER

SCHEDULE 2

REGIONAL TRANSMISSION ORGANIZATION CHARGES
INCLUDED IN PROJECT RATE

Other Charges Included in the Project Rate

All charges listed below are for delivery at the AMP Fremont Energy Center interconnection with the ATSI (PJM) Transmission System.

1. Reactive Supply and Voltage Control from Generation Sources Charges for MISO or PJM, as applicable, associated with Project generation.

2. Operating Reserves (PJM) or Revenue Sufficiency Guarantee Charges (MISO) (Day-Ahead and Real-Time) associated with Project generation.

3. Meter Correction Charges associated with Project generation.

AMERICAN MUNICIPAL POWER, INC.
FREMONT ENERGY CENTER

SCHEDULE 3

~~**BUY-OUT CHARGES TO BE FINANCED**~~**(NOT APPLICABLE)**

~~**PURSUANT TO SECTION 5 (K)** (i)~~

~~[TO COME]~~

~~**AMPGS COSTS TO BE FINANCED PURSUANT TO SECTION 5 (K) (ii)**~~

~~[TO COME]~~

SAMPLE MONTHLY INVOICE

APPENDIX B

RATE SCHEDULE

1

2

3

4

SAMPLE INVOICE
RATE SCHEDULE

AMP Fremont Energy Center Project

1111 Schrock Rd, Suite 100
COLUMBUS, OHIO 43229
PHONE: (614) 540-1111
FAX: (614) 540-1078

INVOICE NUMBER:

INVOICE DATE: 2/1/2012

DUE DATE: 2/11/2012

TOTAL AMOUNT DUE: $6,563.23

CUSTOMER NUMBER:

CUSTOMER P.O. NUMBER:

MAKE CHECKS PAYABLE TO:

PLEASE WRITE INVOICE NUMBER ON REMITTANCE
AND RETURN YELLOW INVOICE COPY.

Municipal Name
Municipal Contact
Municipal Address
Municipal City, State, Zip

FOR THE MONTH/YEAR OF: **January, 2012**

DEMAND CHARGES:					
Billing Demand	1,000 kW				
Base Demand Charge		$1.000000	/ kW *	1,000 kW =	$1,000.00
Demand Power Cost Adjustment (DCF)		$1.000000	/ kW *	1,000 kW =	$1,000.00
TOTAL DEMAND CHARGES:	TOTAL DEMAND CHARGES:	$2.000000	/ kW *	1,000 kW =	$2,000.00
ENERGY CHARGES:					
Billing Energy	401,760 kWh				
Base Energy Charge		$0.001000	/ kWh *	401,760 kWh =	$401.76
Energy Power Cost Adjustment (ECF)		$0.001000	/ kWh *	401,760 kWh =	$401.76
	TOTAL ENERGY CHARGES:	$0.002000	/ kWh *	401,760 kWh =	$803.52
Transmission and Ancillary Service Charges.					
Transmission	401,760 kWh				
Supplemental Transmission Service Charge		$0.001000	/ kWh *	401,760 kWh =	$401.76
TOTAL TRANSMISSION AND ANCILLARY SERVICE CHARGES:		$0.001000	/ kWh *	401,760 kWh =	$401.76
				Subtotal	**$6,410.56**
Service Fee B on Energy Purchase:	401,760 kWh *		$0.000380 /kWh =		$152.67
Total AMP Fremont Energy Center Project Invoice					**$6,563.23**

<u>APPENDIX C</u>

POINT OF DELIVERY
AND
SECONDARY POINTS OF DELIVERY
(Preliminary – To Be Finalized Contemporaneously With Appendix)

APPENDIX C

POINT OF DELIVERY AND
SECONDARY POINTS OF DELIVERY

Point of Delivery

Pursuant to this Power Sales Contract, the Point of Delivery for the AMP Fremont Energy Center is at the Project's ATSI Interconnection and for Replacement Power at the point or points at which capacity or energy is made available hereunder at the Project Rate with any adjustments as set forth herein.

APPENDIX C

POINT OF DELIVERY AND SECONDARY POINTS OF DELIVERY

As used in this Appendix, ATSI means American Transmission Systems, Inc. the transmission owning affiliate of FirstEnergy that is in PJM, AEP means American Electric Power and its affiliates, DAY means DPL, Inc. and its affiliates, DOM means Dominion Virginia Power, and its affiliates, METC means Michigan Electric Transmission Company and ITC means International Transmission Company, APS means Allegheny Power Systems, PENELEC means the Pennsylvania Electric Company a transmission owning affiliate of FirstEnergy that is in PJM, PPL means the Pennsylvania Power and Light Company and METED means the Metropolitan Edison Company a transmission owning affiliate of FirstEnergy that is in PJM,. Title to the energy delivered hereunder shall pass to each Participant at the Delivery Point.

Participant	RTO/Zone	Point of Delivery	Secondary Delivery Point (LMP)	Secondary Delivery Point Voltage
(1)	(2)	(3)	(4)	(5)
[TO COME]	[TO COME]	Project facilities interconnection with ATSI	[TO COME]	[TO COME]

(1) Participants as defined in the Power Sales Contract.

(2) Transmission Service Provider (Regional Transmission Organization) and Transmission Owner zone within which the participant is located.

(3) Point of Delivery for physical delivery of the Project output is the AMP Fremont Energy Center connection to the ATSI Transmission System (PJM). Point of Delivery for Replacement Power will be that point or points where such power is to be delivered to or for the account of AMP.

(4) Secondary Points of Delivery, Locational Marginal Price Point to which the power is ultimately delivered, as defined in the Power Sales Contract.

(5) The Delivery Voltage at which the municipal system interconnects with the RTO/Zone.

APPENDIX D

AMP FREMONT ENERGY CENTER

PROJECT DESCRIPTION

APPENDIX D

PROJECT DESCRIPTION

AMP Fremont Energy Center is a natural gas fired combined cycle power generation plant located in the City of Fremont, Sandusky County, Ohio in the PJM RTO area. The plant has a total anticipated capacity of a 540 MW (unfired), nominal 700 MW (fired), consisting of two Siemens Westinghouse 501FD2 combustion turbines (CTGs); 2 Nooter-Eriksen heat recovery steam generators (HRSGs) and 1 Siemens Westinghouse steam turbine (STG) and condenser, including the site and all related permits, licenses, easements and other real and personal property rights and interests, together with all additions, improvements, renewals and replacements to the electric generating facilities necessary to keep such facilities in good operating condition or to prevent a loss of revenues therefrom or as required by any governmental agency having jurisdiction. This Appendix D shall be amended to reflect any additions to or changes in the AMP Fremont Energy Center, authorized or undertaken in accordance with this Power Sales Contract or the Asset Purchase Agreement.

APPENDIX E

DEVELOPMENT COSTS
(Preliminary – To Be Finalized After Commissioning)

AMP FREMONT ENERGY CENTER

DEVELOPMENT COSTS

Development Cost through February 28, 2011 [1] (approximate)	$~~37,000,000~~ 3,000,000
Estimated Development Costs from March 1, 2011 through June 30, 2011 (approximate)	$3,000,000
Total	$~~40,000,000~~ 6,000,000

[1] Does not include the development fee of thirty-four million dollars ($34,000,000) to be utilized to reduce a portion of the cost obligations of the AMPGS Participants that are also Participants in the AMP Fremont Energy Center Project, as CVEC has fully compensated AMP for all AMPGS related costs.

APPENDIX F

RELATED AGREEMENTS

ASSET PURCHASE AGREEMENT (AVAILABLE UPON REQUEST)

[MSCPA, MSCPA MEMBER, AMP AGREEMENT AND OTHERS TO COME]

APPENDIX G

TRUST INDENTURE
(Preliminary – To Be Finalized With Initial Long Term Financing)

APPENDIX G

TRUST INDENTURE

SEE DOCUMENT #4815-3806-8488

.

APPENDIX G

TRUST INDENTURE

SEE DOCUMENT #4815-3806-8488

APPENDIX H

FORM OF LEGAL COUNSEL OPINION

APPENDIX H

CENTRAL VIRGINIA ELECTRIC COOPERATIVE
FORM OF LEGAL COUNSEL OPINION
RE: AMP FREMONT ENERGY CENTER

~~[TO BE RECEIVED FROM COUNSEL TO EACH PARTICIPANT]~~

PLEASE PREPARE ON LETTERHEAD OF ~~ATTORNEY FOR PARTICIPANT~~

ATTORNEY(S) FOR CVEC

[DATE]

American Municipal Power, Inc.
c/o John W. Bentine
General Counsel
Chester, Willcox & Saxbe ~~LLP~~, LLP
~~Suite 1000~~
65 East State Street, Suite 1000
Columbus, Ohio 43215

Re: Legal Opinion Pertaining to AMP Fremont Energy Center

~~I am an attorney admitted to practice in the (State/Commonwealth) of _____ and I~~ We have acted as counsel to ~~the _____ of _____, _____(State/Commonwealth)_____ (the "Participant"), which has entered into a~~ Central Virginia Electric Cooperative ("CVEC") in connection with its authorization of the Power Sales Contract dated as of July 25, 2011 ("PSC") regarding the American Municipal Power Fremont Energy Center Project between American Municipal Power, Inc. ("AMP") and ~~the Participant and other members of AMP,~~ CVEC and have acted as such in connection with the authorization, execution and delivery by ~~the Participant~~ CVEC of the PSC.

In so acting, ~~I~~ we have examined the following, to the extent necessary to render this opinion:

1. ~~(a)~~The PSC;

2. ~~(b)~~The laws and constitution of the ~~(State/Commonwealth) of _____;~~State of Virginia;

3. ~~(c)Any~~ The relevant ~~ordinance and/or charter~~ provisions of ~~the Participant~~CVEC's articles of incorporation, by-laws, regulations and other corporate documents; and

4. ~~(d)Outstanding~~ All outstanding instruments relating to bonds, notes or other indebtedness of, or relating to, ~~the Participant's~~ CVEC's operations and its electric ~~utility~~ system as identified and certified to us by CVEC.

Based on such examination and having regard to applicable legal principles, ~~I am in~~ we are of the opinion that:

1. ~~The Participant~~ CVEC is a nonprofit corporation and is duly created~~-~~, organized and validly existing pursuant to the ~~Constitution and~~ laws of ~~the (State/Commonwealth) of _____.~~Virginia;

2. ~~The Participant~~ CVEC has full legal right and authority to enter into the PSC, to carry out its obligations thereunder and to furnish ~~electricity to its customers.~~the capacity and energy associated with its PSCR Share of the output associated with AMP's Entitlement to the AFEC to its members;

3. The governing body which has the requisite authority to authorize an appropriate officer of ~~the Participant~~ CVEC to execute and deliver the PSC in the name of, and on behalf of, ~~the Participant is the _____ of the _____ of _____, _____(State/Commonwealth)_____. The _____~~ CVEC is its Board of Directors ("CVEC Board"). The CVEC Board duly approved the PSC and authorized its execution and delivery on behalf of ~~the Participant~~ CVEC by ~~legislative~~ corporate action duly and lawfully adopted at a meeting or meetings duly called and held pursuant to any necessary ~~public~~ notice and at which any necessary quorums were present and acting throughout~~. Such legislative~~ and such corporate action has become effective~~.~~;

4. The PSC has been duly authorized, executed and delivered by the appropriate officers of ~~the Participant~~ CVEC pursuant to ~~legislative~~ corporate action authorizing or directing the same;

5. ~~The Participant~~ CVEC has ~~full~~ power and authority to fix, charge, collect and revise the rates charged to its ~~electric utility customers.~~Participating Members for CVEC's PSCR Share of the capacity and energy purchased by CVEC under the PSC, to be resold to members, subject only to [TO COME] ;

6. The obligation of ~~the Participant~~ CVEC to make payments to AMP pursuant to the PSC is ~~an~~ a "take or pay" obligation of ~~the Participant's electric utility system~~ CVEC payable as an operating expense of its electric system (except to the extent, if any, set forth on Appendix K of the PSC) and from the revenues thereof, as set forth in the PSC~~.~~;

7. The execution and delivery of the PSC by ~~the Participant~~ CVEC and the performance by ~~the Participant~~ CVEC of its obligations thereunder do not contravene in any material respect any applicable resolution, ordinance or charter provision, or any order, injunction, judgment, decree, rule or regulation of any court or administrative agency having jurisdiction over ~~the Participant~~ CVEC or its property or, in any material respect, result in a breach or violation of any of the terms and provisions of, or constitute a default under, any bond ordinance, trust agreement, indenture, mortgage, deed of trust or other agreement to which ~~the Participant~~ CVEC is a party or by which it or its property is bound and relating to ~~the Participant's~~ CVEC's electric ~~utility~~ system~~.~~;

8. Except to the extent, if any, set forth on Appendix K, to the best of ~~my~~ our knowledge after due inquiry, there is no litigation or other ~~proceedings~~ proceeding pending or threatened against ~~the Participant~~ CVEC in any court, regulatory agency or other tribunal of competent jurisdiction (either local, State or Federal) questioning the creation, organization or existence of ~~the Participant or its municipal electric utility system or the validity, legality or enforceability of the PSC.~~CVEC or its electric system; and

9. Assuming the PSC represents a valid and binding legal obligation of AMP, the PSC is a valid and binding legal obligation of CVEC enforceable against CVEC in accordance with its terms except as the enforceability thereof may be limited by applicable bankruptcy, insolvency or other similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

With respect to the existence of (i) litigation, and (ii) ~~instruments relating to outstanding bonds, notes or other indebtedness, (iii)~~ orders, injunctions, judgments, or decrees of any court or administrative agency having jurisdiction over ~~the Participant~~ CVEC or its property ~~and (iv) bond ordinances, trust agreements, indentures, mortgages, deed of trusts or other agreements,~~ in each case relating to ~~the Participant's~~ CVEC's electric ~~utility~~ system or its operation and for purposes of the opinions expressed in ~~paragraphs 7 and~~ paragraph 8 above, ~~I~~ we have relied upon written representations of the appropriate officers of ~~the Participant and/or the Utility Governing Body or the attached opinion of other counsel~~CVEC.

Counsel to AMP may rely upon this opinion for purposes of ~~their~~ furnishing opinions respecting the validity of the PSC.

Very truly yours,

[For any questions or an electronic copy of this document, please contact Barbara Johnson at 614-334-6144 or *barbjohnson@cwslaw.com,* or John Bentine at 614-334-6121 or *jbentine@cwslaw.com*.]

APPENDIX I

SPECIAL PROVISIONS – SCHEDULING AND DISPATCHING

APPENDIX I

SPECIAL PROVISIONS – SCHEDULING AND DISPATCHING

Unless otherwise agreed in accordance with Section 6 of the ~~Contract~~Power Sales Contracts, AMP shall act as the scheduling agent for each Participant's PSCR Share and will ensure that day-ahead schedules are submitted in accordance with the then effective RTO day-ahead scheduling requirements. If a Participant uses a scheduling agent other than AMP, the Participant must ensure that its scheduling agent submits the required day-ahead schedules to AMP at least one hour prior to the then effective RTO day-ahead scheduling deadline. As of June 1, 2011, the day-ahead RTO scheduling deadlines are: PJM 12:00 p.m. (Noon) Eastern Prevailing Time (EPT); MISO 11:00 a.m. Eastern Standard Time (EST).

~~Project Participants will schedule their hourly PSCR Share from the Fremont LMP point.~~

The Project Participant will be responsible for delivery of the power from the ~~Fremont LMP point~~ Point of Delivery to its Secondary Point(s) of Delivery.

As scheduling agent for the Participant's PSCR Shares, AMP will ensure that the hour to hour total scheduled deliveries to the Participants respects the physical limitations of the Fremont Energy Center and the Power Sales Contract Resources as well as any limitations imposed under the Project Agreements, NERC reliability standards, the Regional Entity reliability standards, or the MISO and/or PJM RTO Tariffs or other currently effective operating rules or the rules of any successor organization(s). To the extent that the planned scheduled deliveries must be modified to accommodate any such limitation, AMP will, as necessary, adjust the Participants' up or down on a *pro-rata* basis.

APPENDIX J

NOTICES

For AMP:

Marc S. Gerken, P.E.
President / CEO
American Municipal Power, Inc.
1111 Schrock Rd., Suite 1000
Columbus, OH 43229
Office: (614) 540-1111
Fax: (614) 540-1113

With a copy to:

John W. Bentine
General Counsel to American Municipal Power, Inc.
Chester Willcox & Saxbe, LLP
65 East State St., Suite 1000
Columbus, OH 43215
Office: (614) 334-6121
Fax: (614) 221-4012

~~If to Participant:[TO COME]~~For CVEC:

Gary E. Wood
800 Cooperative Way
Arrington, VA 22922
Fax: (434) 263-8339
Phone: (434) 263-8336

With a copy to:

Christine C. Ryan
Brickfield, Burchette, Ritts & Stone, PC
1025 Thomas Jefferson St. NW
8th Floor, West Tower
Washington, DC 20007
Fax: (202) 342-0807
Phone: (202) 342-0800

APPENDIX K

DISCLOSURES

~~[ANY DISCLOSURES TO COME]~~ CVEC Disclosures

Section 2(B)(vii) Disclosures

CVEC's rates are subject to the approval by the Virginia State Corporation Commission.

Section 2 (B)(viii) Disclosures

CVEC is a party to a Restated Mortgage and Security Agreement with RUS, National Rural Utilities Cooperative Finance Corporation and CoBank, ACB, dated as of January 2, 2004, as may be amended or supplemented from time to time (the "Mortgage"). The Mortgage provides a priority lien (shared pari passu among the lenders that are parties to the Mortgage or become parties to the Mortgage) on all mortgaged property, existing or after acquired. The mortgage property includes, but is not limited to, real property, contracts, cash and equipment.

Section 17(E) Disclosures

CVEC may from time to time incur additional debt secured under the Mortgage. The purpose of these loans shall be for the purpose of financing certain expenses related to CVEC's electric system, including but not limited to, acquiring additional generation resources, constructing transmission facilities or other general corporate purposes. CVEC may also from time to time enter into unsecured credit facilities for the purpose of financing the operation of its electric system or to obtain general lines of credit.

APPENDIX L

AMP FREMONT ENERGY CENTER

PARTICIPANTS MEETINGS
AND
PARTICIPANTS COMMITTEE REGULATIONS

AMP FREMONT ENERGY CENTER PARTICIPANTS MEETINGS AND PARTICIPANTS COMMITTEE REGULATIONS

ARTICLE I – INTRODUCTION, INITIAL MEETING, VOTING

Section One These Regulations govern both meetings of the Participants and meetings of the Participants Committee under the Power Sales ~~Contract~~Contracts.

Section Two AMP shall notice the first such meeting in accordance with Section 34(A) of the Contract.

Section Three All action hereunder shall be by Weighted Vote as specified in Section 5 of Article IV. All actions shall be carried by a simple majority of the Weighted Vote unless otherwise specified in the Power Sales ~~Contract~~ Contracts or these Regulations.

ARTICLE II – DEFINITIONS

Section One Unless otherwise indicated or supplemented herein, words and phrases used herein shall have the meanings specified in the Power Sales ~~Contract~~Contracts.

ARTICLE III – MEMBERSHIP

Section One~~Each Participant~~ CVEC shall be entitled to have one (1) representative, with alternates, to be designated to AMP in writing, for purposes of exercising its rights and obligations in Participants meetings or~~, if elected to~~ at the Participants Committee, meetings~~ of the Participants Committee~~.

ARTICLE IV – MEETINGS

Section One At least annually, and at such other times as are approved by the Participants Committee or upon the written request of Participants having not less than ten percent (10%) of the weighted vote, all Participants shall meet to receive reports from the Participants Committee and AMP on the AMP Fremont Energy Center and other matters pertaining to the Power Sales ~~Contract~~ Contracts and to conduct other business.

Section Two Action items required to be submitted to all Participants between meetings, may be submitted by written instrument, in lieu of meeting, as determined by the Participants Committee.

Section Three Special meetings of the Participants, other than the annual meeting, may be called by the Participants Committee Chairman or the Chairman of the AMP Board of Trustees.

Section Four Written notice of meetings of the Participants, stating the time and place thereof, shall be mailed, or, at AMP's option via email or facsimile, to each Participant in a manner reasonably expected to accomplish receipt not less than ten (10) days before the date of such meeting. Such notice shall be deemed to have been perfected by deposit in the United States mail by first class mail addressed to the Participant at its address as it appears on Appendix J, at the time of the mailing of said notice. Participants may waive notice of any meeting.

Section Five All Participant voting at meetings or upon actions submitted to Participants without meetings shall be determined by a Weighted Vote, with each Participant having a Weighted Vote in proportion to such Participant's PSCR Share expressed as a percentage.

Section Six Participants representing a majority of the Weighted Vote shall constitute a quorum for the transaction of business at any meeting of the Participants. Unless otherwise specified herein or in the Power Sales ~~Contract~~Contracts, a majority Weighted Vote of the quorum may carry any matter at a meeting. Whether or not a quorum is present, a majority Weighted Vote of the voting Participants present at a meeting may adjourn such meeting.

Section Seven The Participants Committee and the AMP Board of Trustees shall determine the agenda for meetings, which shall be included in the notice thereof. Such agenda

may be modified by the Participants, upon motion, at such meeting, as they deem appropriate.

Section Eight Each Participant in good standing shall designate in writing one (1) representative and may also designate one (1) or more alternates. Each Participant, through its representative or alternate representative, shall be entitled its Weighted Vote on any matter coming before the Participants. A representative shall only be eligible to represent one (1) Participant.

Section Nine A Participant in good standing is defined to mean a Participant who is not in default under the Power Sales Contract.

ARTICLE V – PARTICIPANTS COMMITTEE

Section One The Participants Committee shall consist of not less than eight (8) Participants and CVEC, or such other number as determined appropriate by the Participants from time to time prior to the elections pursuant to Section 3 of this Article V, representing not less than a majority of the total Weighted Vote and shall operate and have the duties and responsibilities set forth in these regulations and the Power Sales ~~Contract~~ Contracts and be elected as set forth herein.

Section Two The terms of the members of the Participants Committee shall be for a period of three (3) years ending on November 1st three (3) years subsequent to the last regular election of its members.

Section Three Vacancies on the Participants Committee may be filled by the remaining Committee members, until the next Participants meeting. At the next Participants meeting after such vacancy occurs, the same shall be filled, for the balance of whatever term remains, by election.

Section Four AMP's General Counsel, unless otherwise determined by the AMP Board of Trustees, shall be responsible for ballot preparation, counting, and generally assuring the integrity of the election process.

ARTICLE VI – PARTICIPANTS COMMITTEE MEETINGS

Section One The Participants Committee shall meet in conjunction with the AMP Board of Trustees meetings unless otherwise determined by the Committee. The place of the meeting shall be the principal offices of AMP or at such other place as may be determined by the AMP Board of Trustees or the Chairman of the Participants Committee.

Section Two A majority of the Weighted Vote of the Committee shall constitute a quorum for the transaction of business and, unless otherwise set forth herein or in the Power Sales Contract, action by the majority of the Weighted Vote of the Participants Committee present at a meeting at which a quorum is present shall be the act of the Committee. The Participants Committee shall keep minutes of its actions, and shall transmit a copy of either draft or final minutes to each Participant within thirty (30) days of its meetings.

Section Three The President of AMP shall be an *ex-officio* member of the Participants Committee and shall be entitled to notice of all meetings and to participate therein, but shall not be entitled to vote nor be counted in determining a quorum.

Section Four Notice of the time, place, and purpose of any meeting of the Participants Committee may be waived by majority of Weighted Vote of the Committee.

Section Five The Participants Committee members, excluding *ex-officio* members, shall not receive any compensation for their services as committee members, but may, by resolution of the AMP Board of Trustees, be reimbursed for any necessary and proper expenses incurred in the performance of duties as members of the Committee.

Section Six Actions required to be submitted to the Participants Committee may be submitted to the Committee members for approval by written instrument at the request of the Chairman.

Section Seven The Chairman shall appoint a special Fuel Subcommittee, consisting of selected Participants' Committee members and, at the Chairman's option, such other Participants, AMP staff and others with expertise in Fuel and its procurement to advise the Participants Committee on Fuel related matters, including those set forth in subsection (A)(vi) of Section 4 of the Contract.

ARTICLE VII - OFFICERS

Section One The officers of the Participants Committee, elected or appointed as individuals, shall be the Chairman and a Vice-Chairman

Section Two The Chairman and Vice-Chairman of the Participants Committee shall be elected from the representatives of the Participants on the Committee and shall serve for a period of one (1) year. Should the Chairman or Vice-Chairman be absent from three (3) consecutive meetings of the Committee, that officer shall forfeit such office unless such absences are excused by action of the Committee.

Section Three The Chairman and Vice-Chairman of the Participants Committee shall be elected in that order at the first meeting of the Committee after November 1 of each year. Absent representatives may be nominated. Voting may be by secret ballot if so determined by the Committee. In order to qualify as elected, a candidate must receive a majority of the Weighted Vote for the office. If after tabulating the votes there is not a candidate receiving a majority, then the two (2) (or more should there be a tie) candidates receiving the highest number of votes shall be candidates in subsequent elections until a candidate receives a majority.

Section Four The Chairman of the Participants Committee shall preside at all Committee meetings. In addition, he or she shall appoint the chairs and members of any sub-committees that may be established from time to time. The chairman of each such sub-committee shall be appointed as an individual. The Chairman shall also perform such other duties as may be directed and authorized by the Committee.

Section Five The Vice-Chairman of the Participants Committee shall perform the duties of the Chairman in the event of the latter's absence, resignation, inability or refusal to perform the duties of the office. The Vice-Chairman shall perform such other duties as authorized and as directed by the Committee.

ARTICLE VIII – AMENDMENTS TO REGULATIONS

Section One Amendments to the Regulations may be proposed by the Participants Committee or any four (4) Participants may submit a proposed amendment to the Committee in writing and such proposed amendment shall be presented to the Participants at the next meeting.

Section Two Copies of proposed amendments shall be mailed, and at AMP's option via email or facsimile, to all Participants with the meeting notice. A Super Majority of the Participants must vote in favor of the amendment for passage.

APPENDIX M

~~PART 1~~[RESERVED]

~~AMPGS REPLACEMENT~~[RESERVED]

~~**ANDOTHER POWER PURCHASE BUY-OUT SCHEDULEPART 2AMPGS STRANDED COST FINANCING OPTIONPART 1AMPGS REPLACEMENTANDOTHER POWER PURCHASE BUY-OUT SCHEDULETHE _____ OF _____, _____**~~ ☐ ~~Yes, Municipality desires the option to have AMP finance certain Buy-Out costs._____ (please initial)**NOTE:**Amounts and terms of said financing to be determined and agreed to by AMP and Municipality prior to AMP financing such costs and AMP invoicing Municipality for the same.~~ **~~PART 2AMPGS STRANDED COST FINANCING OPTIONTHE _____ OF _____, _____~~** ☐ ~~Yes, Municipality desires the option to have AMP finance certain AMPGS stranded costs._____ (please initial)**NOTE:**Amounts and terms of said financing to be determined and agreed to by AMP and Municipality prior to AMP financing such costs and AMP invoicing Municipality for the same.~~ND: 4834-3801-1912, v. 25

APPENDIX M

~~(Footnote will indicate AMPGS Participants.)~~

Martinsville
A CITY WITHOUT LIMITS

City Council Agenda Summary

Meeting Date: August 9, 2011

Item No: 5.

Department: Public Works

Issue: Hear an update on the Martinsville Mustangs 2011 season and consider approval of a Letter of Intent for the 2012

Summary: Staff will present a summary outlining the financial details of the 2011 Martinsville Mustangs season.

Attachments: Summary

Recommendations:

DATE: August 5, 2011

SUBJECT: Martinsville Mustangs
2011 Season – Financial Details

FROM: Leon Towarnicki
Assistant City Manager/PW Director

As requested by City Council, this summary of financial details for the 2011 Martinsville Mustangs baseball season that ended August 1 is being provided on Friday, August 5th, in advance of the Tuesday, August 9 Council meeting to provide Council with an opportunity to review the information prior to the regular meeting. As has been pointed out previously, with this report being generated only days after the season ends the information being presented is as accurate as possible recognizing that some expenses and revenue may be realized for the next several weeks. In the financial analysis, wherever possible efforts are made to provide an estimate of anticipated expenses or revenues. As noted, this summary focuses entirely on the financial details and will be included in a report presented publicly on Tuesday, August 9, in addition to other general information related to the 2011 season.

In generating this report, information available through the City's financial accounting system (Munis) for both the FY11 and FY12 years was reviewed. This report generally covers expenses and revenues attributed to the team operation from the period of approximately September 1, 2010, through August 31, 2011. The Martinsville Mustangs' budget contains 45 individual line items and month by month records of each line item were reviewed to determine which playing season expenses should be attributed to, and in some cases to determine if costs are in the correct line item and/or budget. Additionally, expenses that have yet to be posted to Munis are reviewed and as noted previously, estimates for anticipated expenses through the end of August are included. Final numbers will not be known until September or October once all invoicing/billing and revenue collections have made their way through the system.

For the 2011 season, revenue is projected to be $154,312, coming from the usual sources – ticket sales, concessions, souvenir sales, baseball camps, advertising sales, and donations. Expenses for the 2011 season are projected to be $212,776, for a net cost to the City of $58,464. While this is obviously not the number we were hoping to see, it is consistent with annual net costs from previous seasons - $55,699 in 2007; $60,000 in 2008; and $56,888 in 2009. Last year's report (2010) indicated a net cost to the City of $44,365 but in retrospect the decrease was due primarily to two factors – the General Manager's position was not filled until February, 2010 which saved approximately $13,000 in salary, and there were minimum team uniform and ticket supply costs due to supplies purchased for the 2009 season that carried over to the 2010 season. Were it not for those factors, 2010 season costs would likewise have been in the $55,000 to $60,000 range – consistent with numbers from previous seasons. One positive note is that while costs have increased, similar increases in revenue have been achieved to keep the net cost at the same approximate level.

For the 2011 season, savings were realized by using Patrick Henry Community College's bus for Mustangs' out of town games but as is often the case, savings in one area are often balanced with increases elsewhere – for 2011 the full annual salary of the general manager was accounted for; new ticket stock had to be reordered; there were 3 rained out games which accounted for $5000 to $8000 in lost revenue; some of the outfield billboards had to be replaced; and team uniforms were replaced. There were some notable achievements that will be highlighted in the report at the August 9th meeting – despite 3 rainouts season attendance and game day revenue both showed increases.

Regarding the 2012 season, the City has 2 options:

Do not execute the Letter of Intent and do not field a team for the 2012 season. Under this scenario the City may be obligated to reimburse the Coastal Plain League for a portion of the annual team dues and consideration will need to be given to continuation of baseball into the 2013 season or sale of the franchise. With this option, the City saves approximately $50,000 for the season; it "buys" the City time during which the operation can be re-evaluated: options for privatization can be explored; or options for discontinuing the Martinsville Mustangs and sale of the franchise can be considered. The disadvantage is that if it is decided to continue with baseball in the following 2013 season, considerable staff time will be required to reassemble the pieces needed to put a team back in place – hiring personnel, re-establishing player and advertising contacts, etc.

Execute the Letter of Intent for the 2012 season. The obvious question this option raises is what can be done differently from previous seasons to provide the best possible operation for reduced expenditures and increased revenues? There are several recommendations:

- Coach Matt Duffy has expressed an interest in continuing to work for the Mustangs in the offseason selling advertising on a commission-only basis. Any sales revenue would be "new" money and would not be derived from existing sales or contacts that Jim Taipalus has made. There is no cost to the City to do this.

- Move Jim Taipalus to a full-time employee status (he has been working on a contractual basis since February, 2010) and allocate 25% of the salary/benefit costs to Parks & Recreation. A similar amount of Jim's time would be spent assisting with programming and related Parks & Recreation programs. This change would have little or no effect on the Mustangs' budget.

- Utilize the services of a business manager during the season – primarily from late April through the early part of August. Hopefully this could be a volunteer position utilizing the experience of a retired business manager or executive, interested in helping Mustangs' baseball. The position would help monitor day to day expenses, provide some oversight on travel expenditures, assist with vendor expenses and inventory, and provide guidance to the team general manager regarding financial matters.

- Develop a committee to include a representative of the City's Finance Department with the task of analyzing every facet of Mustangs' operations that have a financial impact. This would include for example ticket sales, concessions, souvenir sales, etc. The committee would look at how each operation is currently handled, costs associated with that specific operation, options for privatization of certain functions, pricing structure, proper documentation, etc.

- Continue with efforts to promote the team, expand sales/advertising, and seek new ways to enhance revenue while reducing expenses.

Conclusion:

City Council is faced with a difficult decision. There are many in the community who support Mustangs' baseball and feel strongly about continuing the program. As outlined in this and previous annual reports, there is a cost, however, associated with providing summer baseball and that cost obviously must be weighed against the availability of resources. If the decision is made to continue baseball into the 2012 season, the decision should be made with the realization that local net cost will again likely be in the $50,000 to $60,000 range, not with the expectation that a significantly lower and perhaps unrealistic net cost can be achieved. Staff will, however, continue to work diligently to provide the best possible program at the lowest cost using any and all available resources.

Martinsville
A CITY WITHOUT LIMITS

City Council Agenda Summary

Meeting Date: August 9, 2011

Item No: 6.

Department: Utilities/Water & Sewer

Issue: Consider setting a public hearing for August 23, 2011 regarding adoption of resolution and required ordinance for City of Martinsville Water Supply Plan.

Summary: As part of the mandated Regional Water Supply Plan, all localities in the West Piedmont Planning District Commission region must hold a public hearing to adopt the water supply plan and adopt an ordinance which implements the Drought Response and Contingency Plan, which is part of the overall plan.

The local public hearings must be advertised consistent with requirements in Section 15.2-1427 of the Code of Virginia. This section states that the ordinance must be published once a week for TWO successive weeks prior to its passage. The news publication shall include a statement that a copy of the full text of the ordinance is on file in the clerk's office of the circuit court of the locality and is available for public inspection. The resolutions adopting the plan and the adopted ordinances will become part of the formal submittal of the Plan to the State Water Control Board.

Time Line:
July 21 thru Aug. 23—Council review documents
August 9, 2011—Council set public hearing for Aug. 23
August 23, 2011—hold public hearing and adopt resolution and ordinance on first reading—two required advertisements before holding public hearing
September 12, 2011 adopt resolution and ordinance on second reading

The entire document is available online (instructions attached). Council is encouraged to review page 10-11 of the Water Supply Plan and the section on City of Martinsville in Appendix E Drought Response Plan.

Attachments:
Executive Summary
Notice to Public requiring two advertisements
Draft Resolution
Draft Ordinance
Instructions to access entire document online
Drought Response Contingency Plan
Memo from Draper Aden Associates
Memo from West Piedmont Planning District Comm.

Recommendations: Set public hearing for August 23, 2011.

EXECUTIVE SUMMARY

Organization of the West Piedmont Planning District Commission (WPPDC) Regional Water Supply Plan (Plan) generally follows the State Water Control Board's regulation 9 VAC 25-780, Local and Regional Water Supply Planning. The major sections in the Plan include information on water sources, water use, and natural resources in the region; water demand management information including population and demand projections, water conservation practices, and drought response and contingency planning; a statement of need and alternatives analysis; and information on public participation. This executive summary provides a summary of the regional approach as well as a summary for each of the ten participating jurisdictions.

The conclusions presented in the Plan are based upon information (current as of October 2010) provided by the ten participating jurisdictions and two public water authorities, the Virginia Department of Health (VDH), and/or the Virginia Department of Environmental Quality (VDEQ). The projected water demands presented in the Plan are based on current water source and current water use information provided during the study and as described in the Plan. Future water needs for the region are based on the demand projections, which become more hypothetical as the demands are projected through the 50-year planning period. A projected potential water surplus or deficit in the future does not imply that such a surplus or deficit will actually occur but based on current information plans should be made for addressing this situation. This Plan will be reviewed every five years and resubmitted to VDEQ every 10 years; therefore, the projected water demands and future water needs presented in Plan will be revised as updated information becomes available to refine those projections and more accurately characterize future needs.

The Plan complies with the State Water Control Board's regulation 9 VAC 25-780, Local and Regional Water Supply Planning, and is a functional plan supporting sustainable growth and economic development. The purpose of the regulation is to establish a comprehensive water supply planning process for the development of local, regional, and state water supply plans. This process is designed to:

- Ensure that adequate and safe drinking water is available to all citizens within the region;
- Encourage, promote, and protect all other beneficial uses of the region's water resources;
- Encourage, promote, and develop incentives for alternative water sources; and
- Promote conservation.

Local governments participating in the regional plan notified VDEQ of their intent to participate in the Plan before the November 2, 2008 deadline. The Plan was submitted to the VDEQ prior to the November 2, 2011 deadline. A public hearing was held by each participating jurisdiction and the local governments passed resolutions approving the Plan and adopting other policies or ordinances that were developed during the planning process.

The WPPDC regional water supply planning group is made up of ten (10) local governments and two (2) service authorities. Participating jurisdictions include the counties of Henry, Patrick, and Pittsylvania; the cities of Danville and Martinsville; and the towns of Chatham, Gretna, Hurt, Ridgeway, and Stuart. The Henry County Public Service Authority and Pittsylvania County Public Service Authority also participate.

The WPPDC region is located in the south-central portion of Virginia in the Blue Ridge Mountains and western piedmont region. According to the U.S. Census Bureau, the total population for the region in 2000 was estimated to be 206.909. The region is served by both surface water and groundwater sources. The major streams utilized in the region as water sources include the Dan River, Upper Smith River, Cherrystone Creek, South Mayo River, and Leatherwood Creek. The major reservoirs in the region utilized as water sources include Beaver Creek Reservoir, Georges Creek Reservoir, and Philpott Reservoir. Much of the region is also dependent upon groundwater as well as several springs.

Overall the region is considered to be a water rich region. Based on projected demands and the total existing public community water system capacities for the each locality, the WPPDC region is projected to experience a water supply surplus of approximately 15.2 MGD by the year 2060. However, Henry County and the Town of Gretna are expected to

experience a deficit by 2060. Henry County is in the process of requesting a permit capacity increase which will eliminate their deficit and the Town of Gretna is currently working on a new intake on Whitethorn Creek to supplement the existing Georges Creek Reservoir. It should be noted that there is some uncertainty associated with any point estimate of future deficit (or surplus) 50 years out into the future. This surplus is based on current limiting capacities and total demands (excluding sales to jurisdictions). The majority of this surplus is due to the large surplus from the City of Martinsville.

Additional private demand (from groundwater and surface water sources) of approximately 3.0 MGD may be needed to supply residential and agricultural users outside the service areas of the public community water systems. It is important to note should any of the private community water systems become part of a public community water system; this may increase the future public community water system deficit projections.

City of Martinsville

The City of Martinsville is located at the center of Henry County at the intersection of Route 58 and Route 220. According to the U.S. Census Bureau the population in 2000 was 15,416. The City of Martinsville public community water system utilizes the Beaver Creek Reservoir as the primary water source and a stream intake on Leatherwood Creek as a secondary water source. Intakes on Jones Creek and Little Beaver Creek are no longer being used; however, they are still an option in the future if necessary. Water is supplied to the residents by the City of Martinsville WTF. The City of Martinsville WTF serves approximately 16,000 people and has an average daily withdrawal of 1.94 MGD.

Please note that the Plan generally follows the Regional Water Supply Planning regulation (9 VAC 25-780). The major sections in the Plan, in order, are as follows: information on water sources, water use, and natural resources in the region; water demand management information including population and demand projections, water conservation practices, and drought response and contingency planning; a statement of need and alternatives analysis; and information on public participation.

NOTICE TO THE PUBLIC

PLEASE TAKE NOTICE that the _____County/City/Town Board/Council of Supervisors/_____ City Council/_____ Town Council will hold a Public Hearing on _____(date) at _____(time), or as soon thereafter as the agenda permits, in the _____Room of the _____(location), Virginia, to consider the adoption of the local/regional water supply plan (and Drought Ordinance, if applicable), which includes the following:

* Existing Water Source Information,;
* Existing Water Use Information;
* Existing Resource Information;
* Water Demand Management, or current conservation practices;
* Drought Response and Contingency Plans;
* Projected Water Demand Information;
* Statement of Need based on the adequacy of existing water sources to meet current and projected water demand over the planning period (a minimum of 30 years to a maximum of 50 years).

A copy of the draft water supply plan and ordinance are on file in the _____Office. at the above address and are available to the public for inspection.

_____(name)
County Administrator/City Manager/Town Manager/Mayor/Chairman

To be advertised in the <u>(newspaper)</u> on (dates, twice).

A RESOLUTION APPROVING THE WEST PIEDMONT PLANNING DISTRICT COMMISSION REGIONAL WATER SUPPLY PLAN.

WHEREAS, Virginia State Water Control Board Regulation 9 VAC 25-780, Local and Regional Water Supply Planning, requires all counties, cities and towns in the Commonwealth of Virginia to prepare and submit a water supply plan to the Department of Environmental Quality (DEQ); and

WHEREAS, [JURISDICTION] is a participant in the West Piedmont Planning District Commission Regional Water Supply Planning Group as reported to DEQ by letter before the November 2, 2008 deadline; and

WHEREAS, on [DATE], [JURISDICTION] held a public hearing to accept public comment on the Regional Water Supply Plan; and

WHEREAS, the adopted Regional Water Supply Plan will be submitted to the DEQ on or before November 2, 2011.

NOW, THEREFORE BE IT RESOLVED that the [GOVERNING BODY] of the [JURISDICTION] hereby adopts the West Piedmont Planning District Commission Regional Water Supply Plan as it pertains to [JURISDICTION]. Approval and adoption of this regional plan indicates support for and general agreement with the regional planning approach, but does not indicate approval or disapproval of conclusions and recommendations presented in the plan as they pertain to other localities. [JURISDICTION] reserves the right to comment on specific water supply alternatives in the future even though such alternatives may be recommended in this adopted plan. [JURISDICTION] will not be limited to specific water supply alternatives in this adopted plan and reserves the right to recommend additional alternatives for consideration in the future.

BE IT FURTHER RESOLVED that the [GOVERNING BODY] of the [JURISDICTION] intends that the Regional Water Supply Plan shall be revised to reflect changes in relevant data at least once every five years and resubmitted to DEQ every ten years in accordance with the regulation and sound planning practice.

PASSED, APPROVED AND ADOPTED by the [GOVERNING BODY] of the [JURISDICTION] at a meeting held on [DATE].

Sec. XX. Authority to declare water emergencies.

During the continued existence of climatic, hydrological and other extraordinary conditions the protection of the health, safety and welfare of the residents of the City of Martinsville may require that certain uses of water, not essential to public health, safety and welfare, be reduced, restricted or curtailed. As the shortage of raw or potable water becomes increasingly more critical, conservation measures to reduce consumption or curtail nonessential water use may be necessary. The definitions, water emergency criteria, and water use restrictions referenced in this ordinance are presented in greater detail in the City of Martinsville Drought Response and Contingency Plan, which is incorporated herein by reference.

The City Manager or their designee is authorized to declare a water emergency in the City restricting the use of water in any area of the City. All water stages are built upon and require compliance with previous water stages. For example when a Drought Emergency – Stage 1 is declared all provisions of a Drought Warning are in effect. Also the City Manager or their designee may declare any of the four stages; they do not have to be declared sequentially. (Ord. No. XX)

Sec. XX. Publication of declaration.

Upon the declaration of a water emergency, the City Manager or their designee shall immediately post a written notice of the emergency at the front door of City Hall and shall place a notice in a newspaper of general circulation in the area in which such emergency has been declared. (Ord. No. XX)

Sec. XX. Water use considerations.

Upon the declaration of a water shortage or emergency, the City Manager or their designee is authorized and directed to implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain nonessential purposes for the duration of the water shortage or emergency in the manner hereinafter set out. In exercising this discretionary authority, and making the determinations set forth hereof, the City Manager or their designee shall give due consideration to water levels, streamflow conditions, available/usable storage on hand, draw down rates and the projected supply capability in the City; system purification and pumping capacity; daily water consumption and consumption projections of the system's customers; prevailing and forecast weather conditions; fire service requirements; pipeline conditions including breakages, stoppages and leaks; supplementary source data; estimates of minimum essential supplies to preserve public health and safety and such other data pertinent to the past, current and projected water demands. (Ord. No. XX)

Sec. XX. Limitation of restrictions.

The provisions of this article shall not apply to any governmental activity, institution, business or industry which shall be declared by the City Manager or their designee, upon a proper showing, to be necessary for the public health, safety and welfare or the prevention of severe economic hardship or the substantial loss of employment. Any activity, institution, business or industry

aggrieved by the finding of the City Manager or their designee may appeal that decision to the City Council. (Ord. No. XX)

Sec. XX. Water conservation measures.

Upon a determination by the City Manager or their designee of the existence of the following conditions, the City Manager or their designee shall take the following actions that shall apply to all water users in the City:

(a) Drought Watch: When moderate but limited supplies of water are available and a drought watch is declared in accordance with the Drought Response and Contingency Plan, the City Manager or their designee shall, through appropriate means, call upon the general population to employ prudent restraint in water usage. Public outreach activities shall be identified to inform the general population of the potential for drought conditions to intensify and potential water conservation activities that may be utilized.

(b) Drought Warning: The drought warning stage includes voluntary water conservation actions due to imminent onset of a significant drought event. When a drought warning exists, the following voluntary water restrictions are requested:

- Voluntary, commercial, manufacturing, institutional and residential conservation measures will be strongly encouraged and recommended including the following:
  - Inspect and repair all faulty and defective parts of faucets and toilets.
  - Use shower for bathing rather than bathtub and limit shower to no more than five minutes.
  - Do not leave faucets running while shaving, rinsing dishes, or brushing teeth.
  - Limit use of clothes washers and dishwashers and when used, operate fully loaded.
  - Limit lawn watering to that necessary for plant survival.
  - Water shrubbery the minimum required, reusing household water when possible.
  - Limit vehicle washing.
  - Do not wash down outside areas such as sidewalks, patios, driveways, etc.
  - Install water flow restrictions in showerheads and other water saving devices.
  - Use disposable and biodegradable dishes where possible.
  - Install water saving devices in toilets, such as early closing flapper valves.
  - Do not fill swimming pools.
- An extensive publicity campaign will be initiated using public media and specialized methods to inform the public of an impending water shortage.
- Water supply line pressure should be reduced where feasible to reduce water consumption if it will not affect operation of fixtures, equipment or public safety devices.
- Conservation in public buildings, institutions, dormitories, and similar facilities is encouraged by reducing pressure at plumbing fixtures and by installation of restricting devices.

- All residents, business, and institutions are requested to delay new landscape work until the water shortage has ended.
- Water conservation should be followed during all phases of construction related activities. Where appropriate, water needed should be obtained from supplemental sources and construction related activities, which require water, should be delayed until such time as the water emergency has ended.

All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction of 10%.

(c) Drought Emergency – Stage 1: As drought conditions continue to worsen, a drought emergency – stage 1 may be declared by the City Manager or their designee in accordance with the Drought Response and Contingency Plan. When a drought emergency – stage 1 exists, the following will be prohibited:

- Watering lawns, grass, shrubbery, trees, flower, and vegetable gardens except by hand held hose, container, or drip irrigation system, except persons regularly engaged in the sale of plants will be permitted to use water for irrigation of their commercial stock and golf courses may water greens;
- Filling of newly constructed swimming pools and/or wading pools or refill swimming and/or wading pools, which have been drained;
- Operating water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected;
- Washing automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment, except persons regularly engaged in the business of washing motor vehicles and any commercial car wash facility will be permitted to use water for such purposes;
- Washing down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors or existing or newly constructed homes or apartments, sidewalks, or patios or to use water for similar purposes;
- Operation of ornamental fountain, pool, or pond or other structure making similar use of water;
- Serving drinking water in restaurants, cafeterias, or other food establishments, except as requested by the customer;
- Using public or private fire hydrants for any purpose other than fire suppression or other public emergency or Utility Department need ;
- Using water for dust control or compaction; and
- Using water for any unnecessary purpose or intentionally waste water.

All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction 10-15%.

(d) Drought Emergency – Stage 2: As drought conditions continue to worsen, a drought emergency – stage 2 may be declared by the City Manager or their designee in accordance with the Drought Response and Contingency Plan. When a drought emergency – stage 2 exists, in

addition to the restrictions imposed under the drought emergency – stage 1, the following will be prohibited:

- Watering lawns, grass, shrubbery, trees, or flowers, except persons regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock and golf courses may water greens;
- Watering any vegetable garden, except by hand held hose, container, or drip irrigation system;
- All nonessential use of water for commercial or public use;
- Using water outside a structure for any use other than an emergency use involving fire or as needed by the water utility to maintain the water system;
- Operating an evaporative air conditioning unit which recycles water, except as may be required for health and safety; and
- Other restrictions as may be deemed appropriate and adopted by the City Council.

All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction of at least 15-25%.

Sec. XX. Penalty and enforcement.

(a) Any person who violates any provision of this article shall be subject to the following civil penalties:

(1) For the first offense, violators shall receive a written warning delivered in person or posted by a representative of the City.

(2) For the second offense, violators shall be fined fifty dollars ($50.00), the fine to be imposed on the violator's next water bill, or in the case of violators not on the public water system, in a written notice.

(3) For the third and each subsequent offense, violators shall be fined one hundred dollars ($100.00) for each offense, the fine to be imposed on the violator's next water bill, or in the case of violators not on the public water system, in a written notice.

(4) Each violation by a person shall be counted as a separate violation by that person, irrespective of the location at which the violation occurs.

(b) Persons who have been assessed a penalty shall have the right to challenge the assessment by providing a written notice to the City Manager or their designee within ten (10) days of the date of the assessment of the penalty. The City Manager or their designee shall determine that the penalty was properly assessed and notify the complaining person in writing of his determination.

(c) The City Manager or their designee may waive the penalty if he determines that the violation occurred due to no fault of the person. (Ord. No. XX)

Sec. XX. Notification of end of water emergency.

The City Manager or their designee, following discussions with the Authority, shall notify the City Council when, in his opinion, the water emergency situation no longer exists. Upon concurrence of the City Council, the water emergency shall be declared to have ended. When this declaration is made, the information shall be conveyed to the general public through the news media. (Ord. No. XX)

How to use the Blacksburg DAA FTP Site

Using Windows Explorer (Recommended Method)

Open Windows Explorer

a. Double click on “My Computer”
b. Alternatively, go to Start -> “My Computer”
c. Alternatively, go to Start -> “Accessories” and click on “Windows Explorer”

Copy this link: **ftp://daauser:pascal675@ftp.daa.com/**

Paste it into the Address Bar of Windows Explorer and click on Go

If the above link does not work, enter **ftp://ftp.daa.com** in the Address Bar of Windows Explorer and click Go

When asked, supply the username and password to login to the FTP site:

user: daauser
pass: pascal675

To download files:

* browse to the folder containing the files (Usually **\Upload**).
* double click the file you want to download or right click, select copy, then paste to a folder or you can drag and drop into a folder.

Using Internet Explorer

Click the following link ftp://daauser:pascal675@ftp.daa.com/

Or if you have trouble with the above link, you may use Internet Explorer or an FTP client connect to ftp://ftp.daa.com

user: daauser
pass: pascal675

*** Compatibility Note:** our ftp server is Microsoft and may not be compatible with Firefox or Netscape. It is recommended to use Microsoft Internet Explorer or an FTP client set to Microsoft Compatibility.

To download files:

* browse to the folder containing the files(**\Upload**\).
* double click the file you want to download or right click, select copy, then paste to a folder or you can drag and drop into a folder.
* then browse to that folder.
* copy and paste your file into this folder or drag and drop the file into this folder.

3.0 WATER SOURCES AND DROUGHT STAGES

The water sources in the WPPDC water supply planning region and drought stage criteria used to monitor drought conditions for each of those sources is outlined below. For those jurisdictions that did not already have a DRCP in place, the DRCP is based on the Virginia Drought Assessment and Response Plan dated March 28, 2003. The Virginia Drought Assessment and Response Plan divides the Commonwealth into 13 drought evaluation regions. These regions were established based on a consideration of river basins, climatic divisions, physiographic provinces, major geomorphologic features, and service areas of major water supplies. The WPPDC water supply planning group is part of the Roanoke River Drought Evaluation Region.

3.5 City of Martinsville

The City of Martinsville's primary water supply is from the Beaver Creek Reservoir and supplemented by pump stations on Leatherwood Creek and Little Beaver Creek, as needed. Drought conditions will be monitored by reservoir level based on the water level in feet below the spillway.

3.5.1 **Drought Declaration and Notice**

In the event of the onset of drought conditions, the City Manager is given the right to declare the appropriate drought response stage in the City in accordance with Virginia Code § 15.2-923, Local water-saving ordinances. Drought stages will be determined based on drought criteria; however, the City Manager, or their designee, may also initiate, terminate or delay a drought stage based on other local conditions, including the time of year. In declaring a drought, the City will run an item in a newspaper of general circulation in the area in which such a drought response stage is declared. Public notice of water use restrictions will be published in the Martinsville Bulletin for a period of once per week during which the restrictions are in effect.

In the event that the Governor or the Virginia Drought Coordinator declares a drought emergency in a region that includes the City of Martinsville, the mandatory conservation measures detailed in Section 4.3 will be implemented upon the drought declaration, unless the governor's restrictions are more restrictive, or unless local conditions differ.

3.5.2 **Drought Stages**

In the City of Martinsville, there are four drought stages that are governed by reservoir level. The four drought stages include drought watch, drought warning, drought emergency – stage 1, and drought emergency – stage 2. The criteria for these stages are as follows:

Table 1: City of Martinsville - Drought Stages Based on Beaver Creek Reservoir Level.

Drought Stage	Criteria
Drought Watch	When the reservoir level is 6 feet below the spillway
Drought Warning	When the reservoir level is 10 feet below the spillway
Emergency – Stage 1	When the reservoir level is 14 feet below the spillway
Emergency – Stage 2	When the reservoir level is 18 feet below the spillway

3.5.3 **Water Conservation Measures**

The graduated stages of responses to the onset of drought conditions or water conservation measures are outlined in Section 4.0 of this report.

3.5.4 **Enforcement**

Enforcement of this plan will be conducted in accordance with the City's Drought Ordinance included in Appendix E.

4.0 WATER CONSERVATION MEASURES

In general, each jurisdiction will have at least three graduated stages of responses to the onset of drought conditions, which include drought watch, drought warning, and drought emergency. Drought watch stage responses are generally responses intended to raise awareness of water users in the jurisdiction to climatic conditions that are likely to precede the occurrence of a significant drought event. Public outreach activities to raise this awareness are identified as well as conservation activities that may be used to reduce demand.

Drought warning stage responses are generally responses that are required when the onset of a significant drought event is imminent. Voluntary water conservation activities are identified with the goal of reducing water use by 5 – 10%, in accordance with 9 VAC 25-780-120.A.2.b.

Drought emergency stage responses are generally responses that are required during the height of a significant drought event. Mandatory water conservation activities are identified with the goal of reducing water use by 10 – 15%, in accordance with 9 VAC 25-780-120.A.2.c.

Specific actions and deviations from this general approach are identified below. Plans that are currently in place are included in the noted appendices.

The WPPDC water supply planning group has developed four graduated states of responses to the onset of drought conditions or water conservation measures, which include drought watch, drought warning, drought emergency – stage 1, and drought emergency – stage 2. Each jurisdiction in the WPPDC water supply planning group will follow the water conservation measures outlined below in an effort to reduce confusion among customers.

4.1 Drought Watch

The drought watch stage is intended to increase public awareness of climatic conditions that are likely to precede the occurrence of a significant drought event. When moderate but limited supplies of water are available, the County Administrator, City Manager, Town Manager, or their designee shall, through appropriate means, call upon the general population to employ prudent restraint in water usage. Public outreach activities shall be identified to inform the

general population of the potential for drought conditions to intensify and potential water conservation activities that may be utilized.

4.2 Drought Warning

The drought warning stage includes voluntary water conservation actions due to the imminent onset of a significant drought event. When a drought warning exists, the following voluntary water restrictions are requested:

- Voluntary, commercial, manufacturing, institutional and residential conservation measures will be strongly encouraged and recommended, including the following:
  - Inspect and repair all faulty and defective parts of faucets and toilets;
  - Use shower for bathing rather than bathtub and limit shower to no more than five minutes;
  - Do not leave faucets running while shaving, rinsing dishes, or brushing teeth;
  - Limit use of clothes washers and dishwashers and when used, operate fully loaded;
  - Limit lawn watering to the hours of 9:00 pm to 10:00 am as necessary for plant survival;
  - Water shrubbery the minimum required, reusing household water when possible;
  - Limit vehicle washing;
  - Do not wash down outside areas such as sidewalks, patios, driveways, etc.
  - Install water flow restrictions in showerheads and other water saving devices;
  - Use disposable and biodegradable dishes where possible;
  - Install water saving devices in toilets, such as early closing flapper valves; and
  - Do not fill swimming pools.
- An extensive publicity campaign will be initiated using public media and specialized methods to inform the public of an impending water shortage.
- Water supply line pressure should be reduced where feasible to reduce water consumption if it will not affect operation of fixtures, equipment or public safety devices.
- Conservation in public buildings, institutions, dormitories, and similar facilities is encouraged by reducing pressure at plumbing fixtures and by installation of restricting devices.
- All residents, business, and institutions are requested to delay new landscape work until the water shortage has ended.
- Water conservation should be followed during all phases of construction related activities. Where appropriate, water needed should be obtained from supplemental sources and construction related activities, which require water, should be delayed until the water shortage has ended.

All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction of 10%.

4.3 Drought Emergency – Stage 1

As drought conditions continue to worsen, a drought emergency – stage 1 may be declared by the County Administrator, City Manager, Town Manager, or their designee requiring mandatory water restrictions. When a drought emergency – stage 1 exists, the following will be prohibited:

- Watering lawns, grass, shrubbery, trees, flower, and vegetable gardens except by hand held hose, container, or drip irrigation system, except persons regularly engaged in the sale of plants will be permitted to use water for irrigation of their commercial stock and golf courses may water greens between the hours of 9:00 pm and 10:00 am at the minimum rate necessary;
- Filling of newly constructed swimming pools and/or wading pools or refill swimming and/or wading pools, which have been drained;
- Operating water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected;
- Washing automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment, except persons regularly engaged in the business of washing motor vehicles and any commercial car wash facility will be permitted to use water for such purposes;
- Washing down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors or existing or newly constructed homes or apartments, sidewalks, or patios or to use water for similar purposes;
- Operation of ornamental fountain, pool, or pond or other structure making similar use of water;
- Serving drinking water in restaurants, cafeterias, or other food establishments, except as requested by the customer;
- Using public or private fire hydrants for any purpose other than fire suppression or other public emergency or Utility Department need ;
- Using water for dust control or compaction; and
- Using water for any unnecessary purpose or intentionally waste water.

All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction of at least 10-15%.

4.4 Drought Emergency – Stage 2

If drought conditions continue to worsen, a drought emergency – stage 2 may be declared by the County Administrator, City Manager, Town Manager, or their designee. When a drought emergency – stage 2 exists, in addition to the restrictions imposed under the drought emergency – stage 1, the following will be prohibited:

- Watering lawns, grass, shrubbery, trees, or flowers, except persons regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock;
- Watering any vegetable garden, except by hand held hose, container, or drip irrigation system;
- All nonessential use of water for commercial or public use;
- Using water outside a structure for any use other than an emergency use involving fire or as needed by the water utility to maintain the water system;
- Operating an evaporative air conditioning unit which recycles water, except as may be required for health and safety; and
- Other restrictions as may be deemed appropriate and adopted by the Board of Supervisors, or City or Town Council.

All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction of at least 15-25%.

Draper Aden Associates
Engineering • Surveying • Environmental Services

Memorandum

To:	County Administrators, City Managers, Town Managers, Elected Officials
From:	Mike Lawless
Date:	June 3, 2011
Project Name:	WPPDC Regional Water Supply Plan
Project Number:	B06144-03
Subject:	Briefing Packet
cc:	Aaron Burdick, WPPDC; Bob Dowd, WPPDC; Joan Hullett, WPPDC

Contents:

- Locality-specific Executive Summaries of Regional Water Supply Plan
- Draft Resolution to Adopt Regional Water Supply Plan
- Draft Drought Ordinance or Recommended Revisions to Current Ordinance, if any
- Locality-specific portions of Drought Response and Contingency Plan
- Required Actions and Schedule of Activities

Required actions by each governing body:

- Adopt a Drought Management Ordinance which includes the components recommended by DEQ.
- Adopt a Drought Response and Contingency Plan which will be included in the Regional Water Supply Plan and will be adopted upon adoption of the Water Supply Plan; this does not need separate adoption.
- Hold a public hearing and pass a resolution adopting the Regional Water Supply Plan.

Schedule of activities:

July-September	Public hearings and adoption of Drought Management Ordinance and Water Supply Plan Resolution
October	Submit Regional Water Supply Plan to DEQ, including Drought Response and Contingency Plan and Drought Management Ordinance

This schedule can be adjusted to meet local requirements. The ultimate deadline for submitting the plan to DEQ is November 2, 2011.

July 11, 2011

TO: Barry Dunkley, Danville Water Plant
Mike Ward, Henry County PSA
Tom Rose, Patrick County Administrator
Andy Lash, Martinsville Water Resources
Bennie Snead, Pittsylvania County Service Authority
Greg Side, Pittsylvania County Planning
Edmund Giles, Chatham Town Manager
David Lilly, Gretna Town Manager
Ed Hodges, Hurt Public Works Director
Ed Page, Mayor Ridgeway
Terry Tilley, Stuart Town Manager

FROM: Aaron S. Burdick, Executive Director ASB
West Piedmont Planning District Commission

RE: Adoption of the Regional Water Supply Plan

Following several years of meeting and working together on the plan, it is time to move forward with the public hearings to meet our Region's deadline of November 2, 2011, for adoption.

As part of the mandated Regional Water Supply Plan, all localities in the region must hold a public hearing to adopt the water supply plan and adopt an ordinance which implements the Drought Response and Contingency Plan, which is part of the overall plan. These two actions may be done as part of a regularly scheduled local government meeting or at a specially scheduled meeting. Most localities are electing to hold the public hearings at regularly scheduled meetings.

The local public hearings must be advertised consistent with requirements in Section 15.2-1427 of the Code of Virginia. This section states that the ordinance must be published once a week for two successive weeks prior to its passage in a newspaper having a general circulation in the county. The second publication shall not be sooner than one calendar week after the first publication. The news publication shall include a statement that a copy of the full text of the ordinance is on file in the clerk's office of the circuit court of the county, or in the office of the locality *(FOR THE TOWNs and CITIES),* and is available for public inspection in the offices named herein. The resolutions adopting the plan and the adopted ordinances will become part of the formal submittal of the Plan to the State Water Control Board. (We are not certain that the general public is able to access the FTP site set up by the consultant to review the document online.)

We are asking that the documents attached be put on public display in the above mentioned locations until after the regional deadline of November 2, 2011.

To get the process started, please coordinate with your local government manager to schedule the public hearing. We would appreciate it if you would give us the time and date of your locality's public hearing. At the end of the public hearing stage of the plan adoption, Draper Aden will be putting together documentation of the public participation process. To help with this, please send a copy of your

advertisement and your meeting notice to me at the West Piedmont Planning District Commission. Also, if you would like to have someone attend your hearing, please let us know.

I have recently taken over as the PDC's Executive Director. I will be assisting in the water supply plan adoption process to help our region meet its November 2nd deadline. If you would like to speak with me, I may be reached at 276-638-3987 or by email at aaronburdick@wppdc.org.

Again, we would appreciate it if you could provide us with your locality's public hearing date within the next week or so. We will be putting together a checklist to track the process. Please be sure to send your original signed resolution to me by mail at: WPPDC, P.O. Box 5268, Martinsville, VA 24115. We would also appreciate it if you would email or fax a copy as soon as your public hearing has been held. If you have questions or need assistance, please let us know.

You should have already received a copy of a sample advertisement and the resolution in a briefing packet from Draper Aden.

Thanks to everyone for all of your input and assistance in guiding Draper Aden in developing your locality's component of the plan.

Martinsville
A CITY WITHOUT LIMITS

City Council Agenda Summary

Date: August 9, 2011

Item No: MRHA.1

Department: Martinsville Redevelopment & Housing Authority

Issue: Conduct a public hearing and have a 30-day comment period for any additional public input regarding minimum rent for recipients of assistance under the Section 8 Housing Choice Voucher Program.

Summary: As a cost–saving measure in the Housing Choice Voucher Program, Title 24 of the Code of Federal Regulations allows for a Public Housing Authority (PHA) to establish a minimum rent of $50 per month. Further, because this action is a significant amendment to our administrative plan, it is necessary that we hold a public hearing and have a required 30-day comment period for any additional public input after the Authority's approval. At present, our minimum monthly rent is $25. Public comments can be made to Housing Office, 605 Fourth Street.

Attachments: Section 10.7 (Zero Income Status) and 11.5, B (Assistance and Rent Formula) of the MRHA Administrative Plan.

Recommendations: Conduct a public hearing and consider approval of the requested amendment to the Administrative Plan and allow for a required 30 day comment period for additional input prior to submitting to HUD for their final approval.

ADMINISTRATIVE PLAN
SECTION 8 HOUSING CHOICE VOUCHER PROGRAM
MARTINSVILLE REDEVELOPMENT AND HOUSING AUTHORITY
2011

Sections for Council consideration July 26, 2011:

10.7 **Zero Income Status**

Families reporting no income will be required to execute verification forms to determine which forms of income are not received (Unemployment Compensation, TANF, SSI, Wages, etc.). The PHA may obtain a credit report if information is received that indicates the family has an unreported income source. The family shall be subject to frequent special examinations until an income source can be established.

11.5 ASSISTANCE AND RENT FORMULA

B. Minimum Rent.

The Martinsville Redevelopment and Housing Authority has set the minimum rent as $50.00. However, if the family requests a hardship exemption, the MRHA will suspend the minimum rent for the family beginning the month following the family's hardship request. The suspension will continue until the MRHA can determine whether hardship exists and whether the hardship is of a temporary or long – term nature. During suspension, the family will not be required to pay a minimum rent and the Housing Assistance payment will be increased accordingly.

1. A hardship exists in the following circumstances:
   a. When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State or local assistance program;
   b. When the family would be evicted as a result of the imposition of the minimum rent requirement;
   c. When the income of the family has decreased because of changed circumstances, for medical costs, childcare, transportation, education, or similar items;
   d. When the income of the family has decreased because of changed circumstances, including loss of employment;
   e. When a death has occurred in the family.
2. No hardship. If the MRHA determines that there is no qualifying hardship, the minimum rent will be reinstated, including requiring back payment of minimum rent to the MRHA for the time of suspension.
3. Temporary hardship. If the MRHA determines that there is a qualifying hardship but that it is of a temporary nature, the minimum rent will not be imposed for a period of 90 days from the date of the family's request. At the end of the 90 – day period, the minimum rent will be imposed retroactively to the time of the suspension. The MRHA will offer a reasonable repayment agreement for any minimum rent back payment paid by the MRHA on the family's behalf during the period of suspension.
4. Long – term hardship. If the MRHA determines there is a long – term hardship, the family will be exempt from the minimum rent requirement until the hardship no longer exists.
5. Appeals. The family may use the informal hearing procedure to appeal MRHA 's determination regarding the hardship. No escrow deposit will be required in order to access the informal hearing procedures.