



## Agenda Item VII. C.

**Meeting Date:** February 21, 2017

**Department:** Purchasing

**Issue:** **Chamber of Commerce Agreements**

**Board Action:** The Board is conducting a public hearing to receive input before leasing County property.

**Attachments:** Chamber Lease  
Tourism Services  
Equipment Agreements

**Summary:** At their September 6, 2016 meeting the Board authorized the Chairman to sign a draft Lease Agreement with the Amherst County Chamber of Commerce after legal review by the County Attorney. That Lease Agreement has since been refined and separated into Tourism Services and Equipment Agreements which have been composed, reviewed and authorized for execution by the County Attorney. All three (3) of these documents have been signed by the Chamber President and are now presented for the Chair's signature.

Other than form, no significant changes have been made to the agreements' content from when they were first presented to the Board for approval.

**Recommendation:** That the Board Chair sign the Chamber of Commerce Lease, Tourism Services and Equipment Agreements as presented.

## **LEASE AGREEMENT**

**THIS LEASE AGREEMENT** (hereinafter "Lease"), made as of the first day of January, 2017, by and between **Amherst County**, a political subdivision of the Commonwealth of Virginia (hereinafter "Lessor"), party of the first part; and the **Amherst County Chamber of Commerce**, a Virginia nonprofit nonstock corporation (hereinafter "Lessee"), party of the second part.

### **WITNESSETH:**

**WHEREAS**, Lessor owns the real property located at 328 Richmond Highway, designated as Tax Map Parcel 96A7-5-A ("Property"), on which is situated a renovated historic Train Depot ("Depot"); and

**WHEREAS**, Lessor obtained grant funds from the Virginia Department of Transportation to move and renovate the Depot for purposes which included supplying the Lessee with office and meeting space, and establishing a Visitor Center for the County.

**NOW, THEREFORE**, for and in consideration of the mutual covenants of the parties herein, and other good and valuable consideration, Lessor does hereby lease to Lessee certain space within the Depot, as depicted in **Exhibit A** attached hereto, the same being hereinafter designated "Premises"; and in furtherance thereof the parties agree as follows:

1. **Term**. The initial period of the Lease is one (1) year beginning on January 1, 2017. The parties may agree to renew the Lease after the initial period.

2. **Rent**. Rent for the Premises is \$700 per month. The County shall discount the rent in return for Lessee's operation of the Visitor Center and provision of tourism services, as provided for in the Amherst County Visitor Center and Tourism Services Agreement, attached hereto as **Exhibit B**, such that Lessee shall pay rent for the Premises in the sum of \$10.00 annually.

3. **Termination of Lease**. The Lease may be terminated as follows:

- a. Lessor may terminate the Lease upon termination of the Amherst County Visitor Center and Tourism Services Agreement.
- b. Lessor or Lessee may terminate the Lease at any time by giving written notice 120 days prior to the identified termination date; except that Lessor shall use its best efforts in its sole discretion to provide written notice at least 365 days prior to the identified termination date.
- c. Lessor may terminate this Lease on written notice provided 90 days prior to the identified termination date if (i) Lessee engages in any activity which may cause an encumbrance to be placed upon the Property that limits Lessor's full control, use or disposition of the Property, or (ii) Lessee fails to give Lessor any notice required by the Lease.
- d. Pursuant to paragraphs 14 or 17.

4. **Premises**. The Premises consists of two offices, a conference room, a kitchenette/workroom and access to the public entrance lobby and multipurpose/exhibits room. The Premises is depicted in **Exhibit A**. The Lessee will use the Premises for its primary office space. The Lessor or another Depot tenant may use the conference room, subject to the Lessee's need for that space. The Lessee may use the parking lot for events, provided that the Lessee notifies any other tenant of the Depot reasonably in

advance of any such events. All events at the Premises shall be undertaken only with the mutual consent of all Depot tenants; except that Lessor shall have the option to prohibit any event it deems an inappropriate use of the Property. All Depot tenants shall have access to the restrooms.

5. Furnishings. Lessor will provide certain furnishings such as sofas, chairs, desks, tables, shelving, filing cabinets, and audiovisual equipment for the Visitor Center for Lessee's use during the term of the Lease. Such furnishings and equipment shall remain within the Premises during the term of the Lease as personal property of Lessor. Lessee shall properly maintain such furnishings and equipment, and shall reimburse Lessor the value of any missing or damaged items upon termination of the Lease. The term "furnishings" as used in this Lease does not include IT equipment such as computers, servers, printers, and copiers.

6. Maintenance. The Lessor agrees to maintain the Premises, which shall include maintaining the roof, outside walls, electrical wiring and other structural components such as the foundations of the Depot, stormwater facilities, sewer, water pipes, all other plumbing, heating, ventilating, and air conditioning. The Lessor further agrees that it will maintain the exterior of the Depot and grounds and landscaping on the Premises, including the mowing of grass, raking of leaves, removal of snow and ice from all walks, steps, and driveways, and cleaning of gutters and drains. The Lessor shall bear all costs of the maintenance stated herein.

7. Utilities. The Lessor shall pay for the following utilities and services in connection with the Premises: electricity, water, heating, garbage/trash disposal costs, and janitorial services pursuant to the County's existing janitorial services contract. Lessee may obtain additional janitorial services not provided for in said contract at Lessee's expense. Lessee shall arrange and pay for its internet and telephone services.

8. Appearance of Premises. The Lessee shall coordinate with the other Depot tenant to ensure the Premises are maintained in a neat, clean and attractive manner. Lessee shall provide for the annual plantings and seasonal decorations necessary for exterior public appearance and attraction. Lessee is encouraged, but not obligated, to contact local civic organizations and garden clubs to assist making the appearance of the Premises attractive.

9. Alterations. The Lessee may at its own cost and expense decorate the Premises in such manner as it considers appropriate. With the written approval of the Lessor, Lessee may make alterations or improvements to the Premises, provided that any alterations or improvements shall be made in a good and workmanlike manner. If Lessee makes any alterations or improvements which require Mechanic's Lien coverage, Lessee shall inform Lessor of the identity of the Mechanic's Lien agent prior to commencing the work.

10. Funding. Lessee may accept and use funding from any source so long as such acceptance or use is not predicated on a commitment of County resources which has not been approved in writing by the Amherst County Board of Supervisors prior to funding acceptance or use. Lessee will not undertake any action, commitment, status, registration, application, or representation that will collateralize, impede, encumber or otherwise restrict the County's use or control of the Premises.

11. Property Insurance. The Lessor shall maintain insurance against loss or damage to the Property and Depot, and any personal property owned by the County located upon the Property or within the Depot. Lessor shall not insure Lessee's personal property located upon the Property or within the Depot, and Lessee shall carry such insurance with respect to such personal property as it may deem appropriate.

12. Liability Policy. Lessee shall maintain, at its own expense during and throughout the term of the Lease, comprehensive general liability insurance for the benefit of Lessee and Lessor, with minimum limits of One Million Dollars (\$1,000,000.00), and shall deliver to Lessor certificates of insurance or

copies of such policies showing that such insurance is in full force and effect and that the County has been listed as an additional insured. The policy shall contain a statement requiring the insurer to provide 30 days written notice to the County Purchasing Agent before any cancellation, reduction, or non-renewal of insurance coverage.

13. Indemnification. Lessee shall indemnify and hold harmless Amherst County and its officers, agents, volunteers, and employees against any and all liability, losses, damages, claims, causes of action, suits of any nature, costs, and expenses, including reasonable attorney's fees, resulting from or arising out of Lessee's or its agent's activities or omissions on the Premises, including, without limitation, fines and penalties, violations of federal, state, or local laws, or regulations promulgated thereunder, or any personal injury, wrongful death, or property damage claims of any type.

14. Damage and Destruction of Premises. If, during the term of this Lease, the Premises, or any part thereof, is damaged or destroyed by fire or other casualty, either party shall have the right to terminate the Lease immediately. Lessor shall determine within a reasonable time whether it will rebuild or repair the Premises.

15. Taxes. Lessor shall pay all taxes and assessments levied upon the Property except for taxes assessed against the personal property of Lessee, and except for licenses and permits required in connection with Lessee's business.

16. View of Premises. Lessor may enter the Premises to view them. If Lessor needs access to perform maintenance under Paragraph 6 herein, Lessor shall have the right to enter the Premises at such times as the Lessor deems necessary.

17. Default. If any party breaches any of the terms of this Lease, the breaching party shall be in default and written notice of such default shall be given to the breaching party by the non-breaching party. If the breaching party fails to cure such default to the reasonable satisfaction of the non-breaching party within thirty (30) days of the date of such notice, the non-breaching party may at its option, terminate the Lease.

18. Notice. All notices required to be given hereunder shall be delivered by hand or certified mail to:

If to Lessor: Dean C. Rodgers  
Amherst County Administrator  
PO Box 390  
Amherst, VA 24521

If to Lessee: Chad A. Mooney, Esquire  
Registered Agent  
Petty, Livingston, Dawson, & Richards, PC  
PO Box 1080  
Lynchburg, VA 24505

19. The terms and conditions of this Lease shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives, successors and assigns.

20. By virtue of entering into this Lease, Lessee submits itself to a court of competent jurisdiction in the County of Amherst, Virginia, and further agrees that this Lease is controlled by the laws of the Commonwealth of Virginia and that all claims, disputes, and other matters shall only be decided by such a court according to the laws of the Commonwealth of Virginia.

21. This Lease represents the complete understanding of the parties, and there are no agreements, representations or warranties, except as contained herein. This Lease may not be amended except in writing, signed by both parties.

22. Lessee shall comply with all applicable federal, state, and local laws, codes and regulations currently in force or subsequently adopted.

23. In the event that any provision of this Lease is adjudged or decreed to be invalid, such ruling shall not invalidate the entire Lease but shall pertain only to the provision in question, and the remaining provisions shall continue to be valid, binding, and in full force and effect.

**[SIGNATURES ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, THE PARTIES HEREBY BIND THEMSELVES TO THIS LEASE AS OF THE DAY AND YEAR FIRST ABOVE WRITTEN.

LESSOR: Board of Supervisors of Amherst County, Virginia

By: \_\_\_\_\_  
Claudia D. Tucker, Chair, Amherst County Board of Supervisors

STATE OF VIRGINIA,  
COUNTY OF AMHERST, to-wit:

I, Regina M. Rice, a notary public in and for the state and county as aforesaid, do hereby certify that Claudia D. Tucker, Chair, Amherst County Board of Supervisors, did sign her name to the foregoing Lease Agreement before me the \_\_\_\_ day of January, 2017.

Notary Public: \_\_\_\_\_

Notary Registration Number: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

LESSEE: Chamber of Commerce of Amherst County

By: \_\_\_\_\_  
President, Amherst County Chamber of Commerce

STATE OF VIRGINIA,  
COUNTY/CITY OF Amherst, to-wit:

I, Regina M. Rice, a notary public in and for the state and county as aforesaid, do hereby certify that Patrick R. Dreher President, Amherst County Chamber of Commerce, did sign his name to the foregoing Lease Agreement before me the 3rd day of February, 2017.

Notary Public: Regina M. Rice

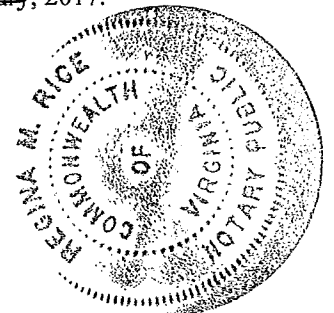
Notary Registration Number: 205067

My Commission Expires: Nov. 30, 2018

Approved as to form:

\_\_\_\_\_  
Ellen Bowyer  
Amherst County Attorney

\_\_\_\_\_  
Date

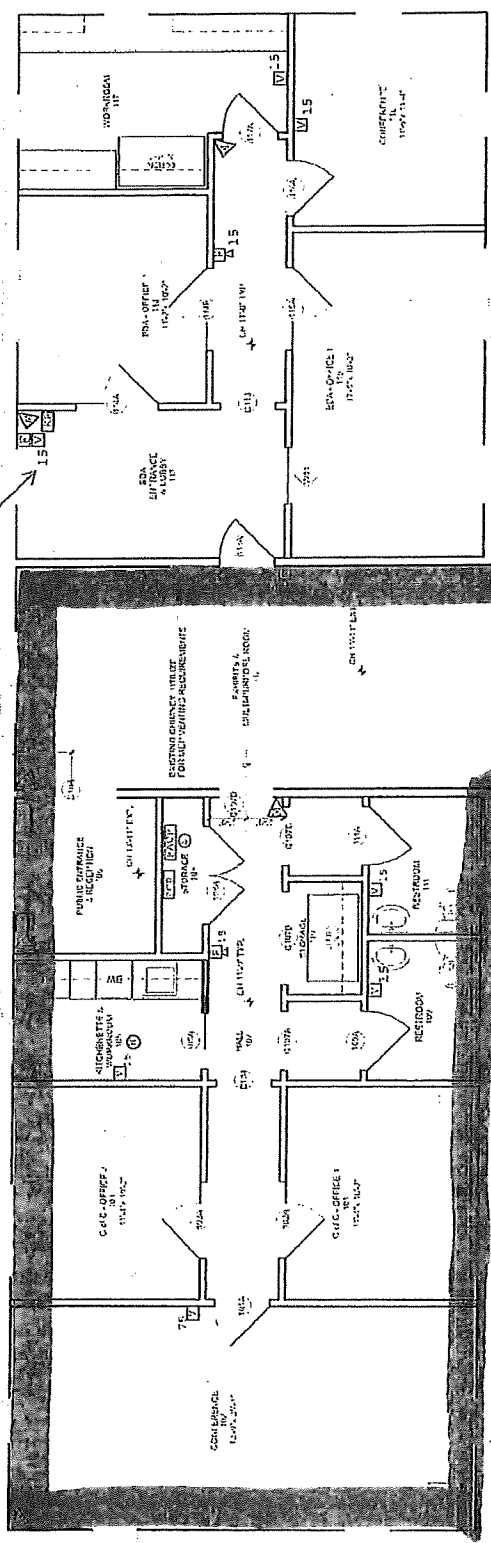


**EXHIBIT A: DEPICTION OF PREMISES**

SECURITY CONTROL PANEL  
 KEYPAD USING BOX 48" AFF  
 NOTION DETECTOR  
 SENSE USING BOX 10" AFF

FIRE ALARM ANNUNCIATOR  
 FIRE CONTROL PANEL  
 PULL STATION  
 SENSE USING BOX 48" AFF  
 1" OUTSIDE BOX  
 HEAT DETECTOR  
 4" OUTSIDE BOX  
 DUST DETECTOR  
 1" OUTSIDE BOX OR 6" BELOW  
 CEILING, WHICHEVER LOWEST  
 48" AFF OR 6" BELOW  
 CEILING, WHICHEVER LOWEST  
 48" AFF OR 6" BELOW  
 CEILING, WHICHEVER LOWEST

DEMOTES NUMBER OF CANDOLA  
 TYPICAL ALL



=Indicates floor area  
 for Chamber of Commerce

AMHERST DEPOT PHASE III  
 PROPOSED FLOOR PLAN





## **TOURISM AND VISITOR CENTER SERVICES AGREEMENT**

**THIS AGREEMENT** (hereinafter "Agreement"), is made as of the \_\_\_\_ day of January, 2017, by and between **Amherst County**, a political subdivision of the Commonwealth of Virginia (hereinafter "County"), party of the first part; and the **Amherst County Chamber of Commerce**, a Virginia nonprofit nonstock corporation (hereinafter "Contractor"), party of the second part.

### **WITNESSETH:**

**WHEREAS**, County owns the real property located at 328 Richmond Highway, designated as Tax Map Parcel 96A7-5-A ("Property"), on which is situated a renovated historic Train Depot ("Depot"); and

**WHEREAS**, County developed the Property in part for the purpose of providing a Visitor Center for Amherst County ("Visitor Center"); and

**WHEREAS**, Contractor has submitted a highly competitive proposal for provision of tourism services; and

**WHEREAS**, Contractor also will be occupying certain rooms within the Depot as office space ("Premises"); and

**WHEREAS**, County has deemed Contractor the sole source practicable to operate the Visitor Center located in the multipurpose room of the Train Depot, and has selected Contractor to provide tourism services to Amherst County.

**NOW, THEREFORE**, for and in consideration of the mutual covenants of the parties herein, and other good and valuable consideration, County does hereby contract with Contractor for the provision of tourism services and operation of the Visitor Center, and in furtherance thereof the parties agree as follows:

1. **Term.** The initial period of the Agreement is one (1) year beginning on January 1, 2017. The parties may agree to renew the Agreement after the initial period.

2. **Funding.** County will lease the Premises to Contractor at a reduced rent and will pay Contractor \$29,500 annually during the term of this Agreement to operate the Visitor Center and provide tourism services. Contractor shall have discretion in managing and operating the Visitor Center and in providing tourism services, except as specifically directed by the County, provided that County has disbursed sufficient funds to Contractor for such services that County seeks to direct.

3. **Visitor Center.** Contractor shall operate the Visitor Center and manage Visitor Center staff. The Visitor Center shall contain information about businesses, attractions, natural resources, parks, festivals, recreational, and cultural activities. The Visitor Center shall be in operation at least from Wednesday to Sunday of each week, and shall be open for a minimum of eight hours on each of those five days. Contractor may operate the Visitor Center more often than as herein required.

4. **Tourism Services.** Contractor shall provide County with the tourism services listed in this paragraph. Services listed under item 4.q are subject to additional funding from County.

- a. Dedicate 10 hours per month by Contractor's Office Manager on tourism services.

- b. Manage Chamber website that promotes Amherst County tourism.
- c. Market local destination and attractions.
- d. Maintain well-informed, current working knowledge of area facilities, attractions and services both public and private, and facilitate and encourage the use of the same.
- e. Respond to all inquiries from patrons, including giving directions and providing brochures, maps, and other information.
- f. Establish rapport with travel industry leaders, agencies and service providers.
- g. Attend training and educational seminars offered by the Virginia Tourism Corporation and other sources as they are identified.
- h. Become a member of the Virginia Tourism Corporation.
- i. Apply for at least one annual grant from the Virginia Tourism Corporation to support tourism in Amherst County.
- j. Form and support a Tourism Council comprised of members drawn from the businesses that participate in Amherst County's tourism industry. Members may include representatives from hotels, vineyards, recreational companies, the Monacan Indian tribe, restaurants, and other businesses, non-profit organizations, and other entities with interests in tourist and recreational activities. The County may choose to name an appointee to the Tourism Council.
- k. Act on behalf of the County in local, regional, and state travel organizations to make Amherst County a travel destination.
- l. Prepare tourism services budget; monitor expenditures.
- m. Develop and implement an Amherst County Marketing Plan as part of each fiscal year budget request.
- n. Maintain and prepare statistical information for reports.
- o. Maintain updated records on local and state events.
- p. Report regularly to the County through the County Administrator.
- q. As additional funding is made available:
  - i. Develop advertisements and related marketing materials.
  - ii. Approve, order and stock local, area, and state brochures and travel guides.
  - iii. Travel to regional meetings, conferences and training events.

5. Termination of Agreement. The Agreement may be terminated as follows:

- a. County may terminate the Agreement pursuant to paragraph 9 upon Contractor's failure to operate the Visitor Center or provide tourism services in a manner satisfactory to County.

- b. County may terminate the Agreement if it or Contractor terminates the Lease governing Contractor's occupancy of the Depot. A copy of said Lease is attached as Exhibit A.
- c. County or Contractor may terminate the Agreement at any time by giving written notice 120 days prior to the identified termination date; except that the parties shall use their best efforts to provide written notice at least 365 days prior to the identified termination date.
- d. Pursuant to paragraph 8.

6. Acceptance and Use of Non-County Monies. Contractor may accept and use funding from any source so long as such acceptance or use is not predicated on a commitment of County resources which has not been approved in writing by the Amherst County Board of Supervisors prior to funding acceptance or use.

7. Indemnification. Contractor shall indemnify and hold harmless Amherst County and its officers, agents, volunteers, and employees against any and all liability, losses, damages, claims, causes of action, suits of any nature, costs, and expenses, including reasonable attorney's fees, resulting from or arising out of Contractor's or its agent's activities or omissions, including, without limitation, fines and penalties, violations of federal, state, or local laws, or regulations promulgated thereunder, or any personal injury, wrongful death, or property damage claims of any type.

8. Damage and Destruction of Premises. If, during the term of this Agreement, the Depot or Property is damaged or destroyed by fire or other casualty, either party shall have the right to terminate the Agreement immediately. County shall determine within a reasonable time whether it will rebuild or repair the Premises.

9. Default. If any party breaches any of the terms of this Agreement, the breaching party shall be in default and written notice of such default shall be given to the breaching party by the non-breaching party. If the breaching party fails to cure such default to the reasonable satisfaction of the non-breaching party within thirty (30) days of the date of such notice, the non-breaching party may, at its option, terminate the Agreement.

10. Notice. All notices required to be given hereunder shall be delivered by hand or certified mail to:

If to County:                    Dean C. Rodgers  
   Amherst County Administrator  
   PO Box 390  
   Amherst, VA 24521

If to Contractor:                Chad A. Mooney, Esquire  
   Registered Agent  
   Petty, Livingston, Dawson, & Richards, PC  
   PO Box 1080  
   Lynchburg, VA 24505

11. Drug Free Work Place. Contractor shall provide a drug-free workplace for Contractor's employees. Contractor shall post in conspicuous places, available to employees and applicants for

employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition. Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor maintains a drug-free workplace. Contractor shall include these provisions in every subcontract or purchase order of over \$10,000, so that these requirements are binding upon each subcontractor or vendor.

12. Nondiscrimination. During the performance of this Agreement, Contractor agrees as follows:

- a. Contractor 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 Contractor's normal operation. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b. Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor, will state that such contractor 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 the requirements of this section.

Contractor will include the provisions of the foregoing paragraphs a, b, and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

13. Illegal Aliens. Contractor does not, and shall not during the performance of this Agreement, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

14. Organizational Structure. If Contractor is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, it shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth to be revoked or cancelled at any time during the term of this Agreement.

15. Payment Clauses.

- a. Contractor shall take one of the two following actions within seven days after receipt of amounts paid to him by the County for work performed by a subcontractor under the Agreement:
  - i. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under the Agreement; or
  - ii. Notify the County and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment and the reason for nonpayment.
- b. Contractor shall pay interest in the amount of .5 percent per month (six percent annually) to the subcontractor on all amounts owed by Contractor that remain unpaid after seven days following receipt by Contractor of payment from the County for work performed

by the subcontractor under the Agreement, except for amounts withheld as allowed in subsection a.

- c. Unless otherwise provided under the terms of this Agreement, interest shall accrue at the rate of one percent per month.
- d. Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.
- e. Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the state agency or agency of local government. No modification to this Agreement shall be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.
- f. Contractor shall provide to the County its federal employer identification number.

16. Insurance. Contractor shall maintain, at its own expense during and throughout the term of the Lease, comprehensive general liability insurance for the benefit of Contractor and County, with minimum limits of One Million Dollars (\$1,000,000.00), and shall deliver to County certificates of insurance or copies of such policies showing that such insurance is in full force and effect and that the County has been listed as an additional insured. The policy shall contain a statement requiring the insurer to provide 30 days written notice to the County Purchasing Agent before any cancellation, reduction, or non-renewal of insurance coverage.

17. By virtue of entering into this Agreement the Contractor submits itself to a court of competent jurisdiction in the County of Amherst, Virginia, and further agrees that this Agreement is controlled by the laws of the Commonwealth of Virginia and that all claims, disputes, and other matters shall only be decided by such a court according to the laws of the Commonwealth of Virginia.

18. No payment, final or otherwise, nor partial or entire use or acceptance of Contractor's work by the County shall constitute acceptance of any professional services not in accordance with the Agreement, nor shall the same relieve Contractor of any responsibility for any errors or omissions in connection with the Project or operate to release Contractor from any obligation under the Agreement.

19. Contractor shall be fully responsible to the County for all acts and omissions of all succeeding tiers of subcontractors and agents performing or furnishing any of the work just as Contractor is responsible for its own acts and omissions.

20. Contractor shall comply with all applicable federal, state, and local laws, codes and regulations currently in force or subsequently adopted, including terms and provisions of Amherst County Code.

21. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives, successors and assigns.

22. This Agreement represents the complete understanding of the parties, and there are no agreements, representations or warranties, except as contained herein. This Agreement may not be amended except in writing, signed by both parties.

23. In the event that any provision of this Agreement is adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding, and in full force and effect.

**[SIGNATURES ON THE FOLLOWING PAGE]**

**EXHIBIT A: LEASE AGREEMENT**



IN WITNESS WHEREOF, THE PARTIES HEREBY BIND THEMSELVES TO THIS AGREEMENT AS OF THE DAY AND YEAR FIRST ABOVE WRITTEN.

COUNTY: Board of Supervisors of Amherst County, Virginia

By: \_\_\_\_\_  
Claudia D. Tucker, Chair, Amherst County Board of Supervisors

STATE OF VIRGINIA,  
COUNTY OF AMHERST, to-wit:

I, \_\_\_\_\_, a notary public in and for the aforesaid State and County, do hereby certify that Claudia D. Tucker, Chair, Amherst County Board of Supervisors, did sign her name to the foregoing Agreement before me the \_\_\_\_ day of \_\_\_\_\_, 2017.

Notary Public: \_\_\_\_\_

Notary Registration Number: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

CONTRACTOR: Chamber of Commerce of Amherst County

By: [Signature]  
President, Amherst County Chamber of Commerce

STATE OF VIRGINIA,  
COUNTY OF Amherst, to-wit:

I, Regina M. Rice, a notary public in and for the aforesaid State and County, do hereby certify that Patrick R. Dreher did sign his name to the foregoing Agreement before me the 3rd day of February, 2017.

Notary Public: Regina M. Rice

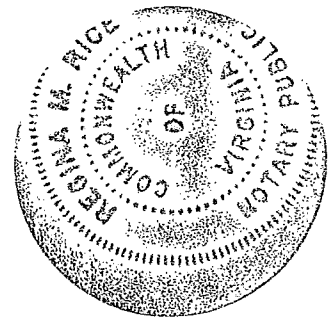
Notary Registration Number: 205667

My Commission Expires: Nov 30, 2018

Approved as to form:

\_\_\_\_\_  
Ellen Bowyer  
Amherst County Attorney

\_\_\_\_\_  
Date







## **EQUIPMENT AGREEMENT**

**THIS EQUIPMENT AGREEMENT** (hereinafter "Agreement"), is made as of the \_\_\_\_ day of February, 2017, by and between **Amherst County**, a political subdivision of the Commonwealth of Virginia (hereinafter "County"), party of the first part; and the **Amherst County Chamber of Commerce**, a Virginia nonprofit nonstock corporation (hereinafter "Chamber"), party of the second part.

### **WITNESSETH:**

**WHEREAS**, County owns the real property located at 328 Richmond Highway, designated as Tax Map Parcel 96A7-5-A, on which is situated a renovated historic Train Depot ("Depot"); and

**WHEREAS**, County has entered into a lease with Chamber for its occupancy of certain space in the Depot ("Lease"), a copy of which is attached as **Exhibit A**, and has entered into an agreement with Chamber for its provision of tourism services and operation of the County's Visitor Center ("Tourism and Visitor Center Services Agreement"), a copy of which is attached as **Exhibit B**; and

**WHEREAS**, County is intending to allocate funding to the Chamber to support their purchase of certain computer equipment ("Equipment") for use by the Chamber; and

**WHEREAS**, County wishes to protect its investment in, and ensure proper use of, the Equipment by entering into this Agreement with Chamber.

**NOW, THEREFORE**, for and in consideration of the mutual covenants of the parties herein, and other good and valuable consideration, County and the Chamber do hereby agree as follows:

1. **Funding**. Chamber shall present appropriation requests, which shall support the purchase of computer Equipment. Funding shall be used, if granted, to support the initial purchase of the Equipment, and shall not be expended on any maintenance or repair costs, or any purchases of software subsequent to the initial purchase of the Equipment.

2. **Term**. The term of Agreement shall be commensurate with the term of the Lease, except that it may be terminated as provided in paragraph 10 of Agreement.

3. **Equipment**. Chamber shall purchase the Equipment, and shall provide a list of the Equipment to the County upon Chamber's receipt and acceptance of the Equipment. County shall at all times retain ownership of the Equipment. Upon termination of this Agreement, if not earlier as per paragraph 9 of Agreement, Chamber shall reimburse County for any missing or damaged Equipment in amounts as determined by the County, and shall leave all other Equipment in the Depot for the County's subsequent disposition of the same.

4. **Installation**. Chamber shall contract for installation of all Equipment. Chamber shall not hire any contractor to install the Equipment, until said contractor has been approved by the County. Except as authorized by the County in writing, Chamber shall make no changes to the Depot's IT infrastructure, which includes but may not be limited to the server rack, cabling, and network cabinet. No Equipment other than laptops and projectors needed for business purposes outside of the Depot may be taken from the Depot except with the County's written authorization.

5. **Use**. The Chamber may use the Equipment in the performance of Chamber business. Only Chamber employees and volunteers may use the Equipment, except that the general public may use Equipment designated for public access. Chamber employees and volunteers shall not make any personal

use of the Equipment, shall not use the Equipment for any illegal purpose, and shall not make any use of the Equipment that would not be permissible on other County Equipment. This includes but is not limited to engaging in shopping, viewing sports, viewing movies or other videos unrelated to Chamber business, or engaging in non-business use of social media. Any questions regarding appropriate use shall be directed to the County in writing.

6. Software. Chamber shall be responsible for purchasing all software to be installed on the Equipment. Such software shall be licensed appropriately, and all Equipment shall be protected by reputable anti-virus protection, updated as necessary to ensure continuing protection. Chamber shall provide County a list of all software installed on the Equipment, along with license registrations.

7. Maintenance. Chamber shall maintain the Equipment, and shall resolve any breakdown or malfunction of the Equipment, at its own expense. Chamber understands that County staff are not available to assist with any issue connected to the Equipment, and that County monies other than Funding as specified herein are not to be expended on the Equipment. Chamber agrees it will not contact County staff for assistance with the Equipment, and Chamber agrees it will not use County monies to support the cost of maintaining or repairing the Equipment.

8. Indemnification. Chamber shall indemnify and hold harmless Amherst County and its officers, agents, volunteers, and employees against any and all liability, losses, damages, claims, causes of action, suits of any nature, costs, and expenses, including reasonable attorney's fees, resulting from or arising out of Chamber or its agent's actions or omissions connected to the installation, use, or maintenance of the Equipment, including, without limitation, fines and penalties, violations of federal, state, or local laws, or regulations promulgated thereunder, or any personal injury, wrongful death, or property damage claims of any type.

9. Damage and Destruction of Equipment. If, during the term of this Agreement, all, or any single item, of the Equipment is damaged or destroyed by fire or other casualty, Chamber shall reimburse County for the damaged or destroyed Equipment and the County is not obligated to replace or repair the Equipment.

10. Termination of Agreement. If the County finds that the Chamber has breached any of the terms of this Agreement, the County may deem the Chamber to be in default of the Agreement. Upon its supplying the Chamber with written notice of such default, the County may terminate the Agreement. The County also may terminate this Agreement upon termination of the Lease or termination of the Tourism and Visitor Center Services Agreement.

11. Notice. All notices required to be given hereunder shall be delivered by hand or certified mail to:

If to County: Dean C. Rodgers  
Amherst County Administrator  
PO Box 390  
Amherst, VA 24521

If to Chamber: Chad A. Mooney, Esquire  
Registered Agent  
Petty, Livingston, Dawson, & Richards, PC

PO Box 1080  
Lynchburg, VA 24505

12. By virtue of entering into this Agreement Chamber submits itself to a court of competent jurisdiction in the County of Amherst, Virginia, and further agrees that this Agreement is controlled by the laws of the Commonwealth of Virginia and that all claims, disputes, and other matters shall only be decided by such a court according to the laws of the Commonwealth of Virginia.

13. No payment, final or otherwise, nor partial or entire use or acceptance of Chamber work by the County shall relieve Chamber of any responsibility for any errors or omissions in connection with the Equipment, or operate to release Chamber from any obligation under the Agreement.

14. Chamber shall be fully responsible to the County for all acts and omissions of all succeeding tiers of subcontractors and agents which affect the Equipment just as Chamber is responsible for its own acts and omissions.

15. Chamber shall comply in its use of the Equipment with all applicable federal, state, and local laws, codes and regulations currently in force or subsequently adopted, including terms and provisions of Amherst County Code.

16. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives, successors and assigns.

17. This Agreement represents the complete understanding of the parties, and there are no agreements, representations or warranties, except as contained herein. This Agreement may not be amended except in writing, signed by both parties.

18. In the event that any provision of this Agreement is adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding, and in full force and effect.

**[SIGNATURES ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, THE PARTIES HEREBY BIND THEMSELVES TO THIS AGREEMENT AS OF THE DAY AND YEAR FIRST ABOVE WRITTEN.

COUNTY: Board of Supervisors of Amherst County, Virginia

By: \_\_\_\_\_  
Claudia D. Tucker, Chair, Amherst County Board of Supervisors

STATE OF VIRGINIA,  
COUNTY OF AMHERST, to-wit:

I, \_\_\_\_\_, a notary public in and for the aforesaid State and County, do hereby certify that Claudia D. Tucker, Chair, Amherst County Board of Supervisors, did sign her name to the foregoing Agreement before me the \_\_\_\_ day of \_\_\_\_\_, 2017.

Notary Public: \_\_\_\_\_

Notary Registration Number: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

CHAMBER: Chamber of Commerce of Amherst County

By: [Signature]  
President, Amherst County Chamber of Commerce

STATE OF VIRGINIA,  
COUNTY OF Amherst, to-wit:

I, Donna P. Bennett, a notary public in and for the aforesaid State and County, do hereby certify that Patrick R. Dreher did sign his name to the foregoing Agreement before me the 14<sup>th</sup> day of February, 2017.

Notary Public: Donna P. Bennett

Notary Registration Number: 7086744

My Commission Expires: 12/31/2021

Approved as to form:

\_\_\_\_\_  
Ellen Bowyer  
Amherst County Attorney

\_\_\_\_\_  
Date

