

**REPORT ON THE  
CITY OF MARTINSVILLE – HENRY COUNTY  
VOLUNTARY SETTLEMENT AGREEMENT**



**Commission on Local Government  
Commonwealth of Virginia**

**October 2021**

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# REPORT ON THE CITY OF MARTINSVILLE–HENRY COUNTY VOLUNTARY SETTLEMENT AGREEMENT

## PROCEEDINGS OF THE COMMISSION

On September 18, 2020, the City of Martinsville (“City”) filed notice with the Commission on Local Government (“CLG” or “Commission”), pursuant to the provisions of Sections 15.2-2907(A) and 15.2-4101 of the Code of Virginia, of its intentions to petition the court for an order granting it the status of a town within Henry County (“County”).<sup>1</sup> Consistent with the regulations promulgated by the Commission, the City’s notice was accompanied by data and materials supporting the proposed reversion. Further, in accordance with statutory requirements, the City concurrently gave notice of its proposed reversion to the County and to six other localities with which it was contiguous or with which it shared functions, revenues, or tax sources.<sup>2</sup>

On October 14, 2020, representatives from the City and County came before the Commission to introduce the matter and to participate in discussions on the Commission’s pending review schedule. The Commission offered mediation assistance to help the parties resolve any interlocal disagreements on the reversion matter, but the parties declined this offer because they were already engaged in private discussions. Accordingly, the Commission adopted a review schedule that would have resulted in issuing its final advisory report on May 13, 2021.<sup>3</sup>

On November 30, 2020, the County filed notice with the Commission on Local Government of its response to the City’s notice addressing matters relevant to the City’s proposed reversion.<sup>4</sup> Consistent with the regulations promulgated by the Commission, the County’s notice was accompanied by data and materials responsive to the City’s proposed reversion. In such

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<sup>1</sup> City of Martinsville, Notice of the City of Martinsville’s Intention to Petition for an Order Granting it Town Status within Henry County (hereinafter referred to as “City Reversion Notice”), September 18, 2020. The City Reversion Notice contains the Notice and supporting materials.

<sup>2</sup> Ibid., “Local Governments Notified,” page 5.

<sup>3</sup> Pursuant to §15.2-2907 (A) of the Code of Virginia, the Commission used its authority to extend the review by an additional 60-days.

<sup>4</sup> Henry County, Henry County’s Response to the Notice of the City of Martinsville’s Intention to Petition for an Order Granting it Town Status within Henry County (hereinafter referred to as “County Response”), November 30, 2020.

response, the County stated that it does not oppose the City's reversion to town status as a general proposition, but it does object to the manner in which the City proposes to revert.<sup>5</sup>

On February 17, 2021, the parties requested "an 84-day extension of the deadline by which the CLG must report its findings of fact and recommendations in (the) matter, and a similar extension of all other intervening deadlines" in the Commission's adopted review schedule.<sup>6</sup> Furthermore, in that letter, the parties stated they had "scheduled a meditation for April 28 and 29, 2021, regarding the terms and conditions of reversion."<sup>7</sup> Accordingly, during the Commission's March 25, 2021, meeting, the adopted review schedule and intervening deadlines were amended with a final advisory report to be issued by the Commission on August 5, 2021.

At the Commission's next regularly scheduled meeting on May 13, 2021, the parties advised the Commission that they had "reached an agreement in principle that they anticipate will be approved at a meeting of the two governing bodies before the end of the month."<sup>8</sup> In response to this matter, the Commission paused its review proceedings to provide the parties with sufficient time to adopt the agreement and take other necessary steps.

On June 24, 2021, Commission staff reached out to the parties to request an update on their progress so that it could be shared with the Commission during its regularly scheduled meeting on July 8, 2021. In response, the parties requested an amendment to the Commission's review schedule so that a final advisory report would be issued by mid-October 2021. Although a joint Notice inclusive of an agreement had not been formally filed before the Commission at that time, staff followed an abbreviated review period in part because the City wanted the timing of its filing to preserve the chance that the special court could assemble and reach its decision before the end of calendar year 2021.<sup>9</sup>

On August 25, 2021, the Commission received a formal Notice filed by the City and County requesting the Commission to review and issue findings on a proposed Voluntary Settlement Agreement (VSA) negotiated by the City and County pursuant to Section 15.2-3400 of the Code

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<sup>5</sup> Ibid, pages 1 - 2. Generally, the County claimed that the City's proposal failed "to provide the County with sufficient assets to carry out the services the City proposes to transfer to the County."

<sup>6</sup> Carroll, Jeremy, Counsel for Henry County; Piegrass, Stephen; Claiborne, Robert; and West, John, Counsel for City of Martinsville; letter (via email) to staff of Commission on Local Government, February 17, 2021.

<sup>7</sup> Ibid.

<sup>8</sup> Carroll, Jeremy, Counsel for Henry County. Email to staff of Commission on Local Government, May 13, 2021.

<sup>9</sup> §15.2-4211 of the Code of Virginia states that "[t]he special court in its order granting town status shall specify the effective date of transition from city status to town status, but in no event shall such be sooner than six months from the date of the court order." This would mean that in order to revert by July 1, 2022, the special court would need to render its decision on the topic no later than December 31, 2021.

of Virginia.<sup>10</sup> Consistent with the regulations promulgated by the Commission, the City and County also submitted data and materials supporting the proposed agreement.<sup>11</sup> Further, and in accordance with 1 VAC 50-20-230 (C), the City and County gave notice of the proposed agreement to the 10 political subdivisions that are contiguous or that share functions, revenues, or tax sources with the City and County.<sup>12</sup>

The proposed agreement (1) provides for Martinsville’s reversion from city to town status, (2) addresses the allocation of governmental services following that change in governmental structure, (3) identifies the transfer of certain properties, (4) delineates the sharing of certain revenues, (5) provides for a temporary moratorium of annexation rights, and (6) other matters.<sup>13</sup>

In conjunction with its review of the proposed settlement agreement, on September 7 and 8, 2021, the Commission met in the City to hear oral testimony from the two jurisdictions in support of the agreement.<sup>14</sup> On the evening of September 8, 2021, the Commission held a public hearing, advertised in accordance with Section 15.2-2907 (B) of the Code of Virginia, to receive citizen comment. The public hearing was attended by approximately 125 persons; 33 individuals testified. In order to permit receipt of additional public comment, the Commission agreed to keep its record open for written submissions through September 17, 2021. The Commission received additional written comments from 13 individuals before the record closed.

## SCOPE OF REVIEW

The Commission on Local Government is directed by law to review negotiated interlocal agreements, such as the one currently before us, prior to their presentation to a three judge panel for ultimate disposition. Upon receipt of notice of such agreements, the Commission is directed to “hold hearings, make investigations, analyze local needs,” and submit a report containing findings of fact and recommendations to the affected local governments.<sup>15</sup> With respect to this proposed agreement, which was negotiated under the authority of Section 15.2-

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<sup>10</sup> Notice of the City of Martinsville and Henry County of Their Intention to Petition for the Approval of a Voluntary Settlement of Town Status and Other Issues (hereinafter referred to as “VSA Notice”), August 15, 2021.

<sup>11</sup> Ibid. The VSA Notice contains the supporting materials required for such Notices and incorporates by reference the data and other evidence submitted to the Commission in the City Reversion Notice and the County Response.

<sup>12</sup> Ibid. page 3.

<sup>13</sup> Ibid. page 2.

<sup>14</sup> Given the large size of the affected area - the City and County collectively - the Commission opted not to conduct a tour of the affected area.

<sup>15</sup> §15.2-2907 (A), Code of Virginia.

3400 of the Code of Virginia, the Commission is required to determine in its review “whether the proposed settlement is in the best interest of the Commonwealth.”

As we have noted in previous reports, the General Assembly encourages local governments to attempt to negotiate settlements of their interlocal concerns. The Commission can, and often does, assist local governments in such negotiations as directed by statute. In view of this legislative preference for negotiated agreements, the Commission believes that proposed interlocal agreements, such as the one currently before us, should be approached with respect, and we trust that the agreement is compatible with applicable statutory standards. However, the General Assembly has also decreed that interlocal agreements negotiated under the authority of Section 15.2-3400 of the Code of Virginia shall be reviewed by this body prior to their final adoption by the local governing bodies and the subsequent special three-judge panel review. We are obliged to conclude, therefore, that, while interlocal agreements are due respect and should be approached with a presumption of their consistency with statutory standards, such respect and presumption cannot be permitted to render our review a *pro forma* endorsement of any proposed settlement. Our responsibility to the Commonwealth and to the affected localities requires a more thorough review.

Finally, the Commission would be remiss if it did not make note of the global Coronavirus Disease 2019 (COVID-19) pandemic that occurred during the course of its review. The COVID-19 pandemic had a drastic effect on local governments across the Commonwealth, including the parties. Also, the pandemic negatively affected the Commission’s ability to meet with the parties early on in this process, and some of the Commission’s proceedings were conducted virtually with the parties until the state of emergency ended on June 30, 2021. Finally, the pandemic has affected the public’s ability to participate in this process. Not only did the public have to navigate and attend virtual meetings while the state of emergency was ongoing, but also, the Commission decided to take measures to ensure that its in-person proceedings were conducted in a way to minimize public health risks after the state of emergency ended.<sup>16</sup> While none of these factors directly affected the scope of our review, navigating these conditions placed significant stress on the Commission, the parties, and the public.

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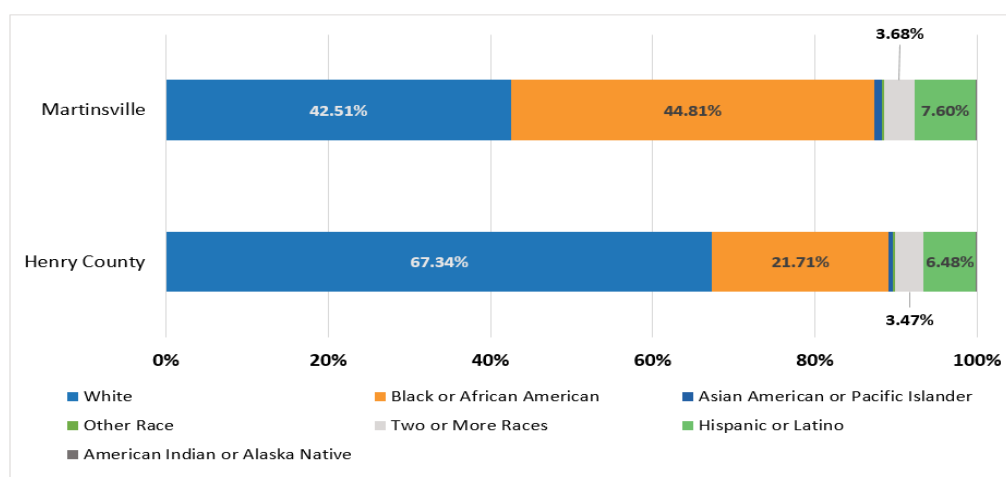
<sup>16</sup> These measures included requiring masks for all attendees at the oral presentations and public hearing, reducing the capacity of the oral presentation and public hearing meeting space by 50%, and providing a virtual meeting component to the oral presentations and public hearing through Google Meet.

## GENERAL CHARACTERISTICS OF THE CITY AND THE COUNTY

### *City of Martinsville*

Established in 1791 as a town and granted independent city status in 1928, Martinsville has long represented a population and economic center for Virginia.<sup>17</sup> Located at the center of Henry County in southwest Virginia, the City currently includes a population of approximately 13,000 people with a population density of 1,181 persons per square mile.<sup>18</sup> The City was historically a hub for manufacturing, particularly in the textile and furniture industries.

**Figure 1:** 2020 Population by Race and Ethnicity, Martinsville and Henry County<sup>19</sup>



The City is one of the most racially diverse in southwest Virginia, with Black or African American individuals representing slightly less than half (44.8%) of the City's total population (See Figure 1 above). Another 7.6% identify as Hispanic or Latino, and a further 3.68% as two or more races.<sup>20</sup>

Despite its long history, the City is economically stressed. Starting in the 1990s and continuing up until the present, the City has seen a steep decline in jobs in the manufacturing industries that served as its economic foundation. This decline has led to several decades of stagnant economic

<sup>17</sup> City Reversion Notice, page 7.

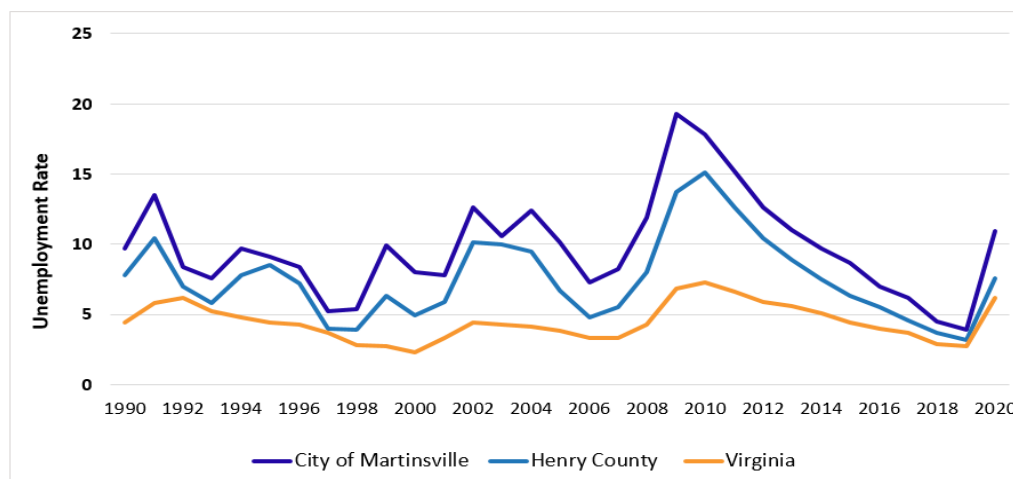
<sup>18</sup> Ibid, page 13. The 2020 Decennial Census Redistricting Data (PL 94-171) has been released since the City's Notice was filed with the Commission. Accordingly, the total 2020 population for the City of Martinsville is 13,485 persons, which would establish a population density of 1,225 persons per square mile.

<sup>19</sup> U.S. Census Bureau (2020). P2 Hispanic or Latino, and Not Hispanic or Latino by Race. Retrieved from: <https://data.census.gov/cedsci/table?g=0500000US51089,51690&tid=DECENNIALPL2020.P2&hidePreview=true>. For purposes of this section, all referenced numbers are contained in Figure 1, which includes information on Henry County.

<sup>20</sup> Ibid.

growth and has forced the City, along with the rest of the region, to look to foster new development opportunities. These trends continue into more recent periods. According to employment data for the City, the total number of wage and salary employment positions declined from 5,432 positions in 2007 to 5,161 in 2017, a decrease of 5.0%.<sup>21</sup> Meanwhile, Virginia as a whole experienced a 25.3% increase in employment positions over the same time period.<sup>22</sup> The City's current labor force participation rate is 54.9%, nearly a full 10 percent behind the Commonwealth's rate (64.0%), providing further evidence for the lack of employment opportunity in the City.<sup>23</sup>

**Figure 2:** Unemployment Rates for Martinsville and Henry County, 1990 - 2020 (not seasonally adjusted)<sup>24</sup>



The historic lack of economic opportunity is also illustrated by the area's overall unemployment rate over the past three decades. As shown in Figure 2, the City's unemployment rate is consistently greater than the Commonwealth's by an average of 5.3 points. Additionally, Martinsville's economy is particularly sensitive to business cycle downturns, as shown in the difference between the City's unemployment levels during the 2001 and 2008 recessions. The

<sup>21</sup> City Reversion Notice. page 60

<sup>22</sup> *Ibid.* In the overall region, containing both the City and County, the share of the number of positions within the City remains constant at approximately 18.5%.

<sup>23</sup> U.S. Census Bureau (2019). QuickFacts: Virginia; Henry County, Virginia; Martinsville city (County), Virginia. Retrieved from:

<https://www.census.gov/quickfacts/fact/table/VA,henrycountyvirginia,martinsvillecitycountyvirginia/PST045219>

<sup>24</sup> Virginia Employment Commission, Local Area Unemployment Statistics, (1990 - 2020) Retrieved from:

<https://virginiaworks.com/Local-Area-Unemployment-Statistics-LAUS> For purposes of this section, all referenced numbers are contained in Figure 2, which includes information on Henry County and the Commonwealth of Virginia



City's unemployment level reached a maximum of 19.3% in 2009, as compared to 6.8% in the Commonwealth.

As a consequence of these events, the City's citizens face significantly worse economic and social circumstances than those of the Commonwealth generally. The estimated median household income for Martinsville in 2020 was \$37,814, less than half of the statewide median income (\$76,471) and in the bottom 90th percentile for Virginia's localities.<sup>25</sup> Additionally, one in five (22.5%) of the City's residents fall under the poverty line, and one in four (27.67%) receive Supplemental Nutrition Assistance Program (SNAP) benefits.<sup>26</sup>

The City is also facing several demographic trends that negatively impact economic growth. First, Martinsville's population is aging at a higher rate relative to the rest of the Commonwealth. As of 2019 projections, the median age of the City's residents was 40.0 years old, while the median age for Virginia was 38.6.<sup>27</sup> Further, one-fifth (18.1%) of the city's population is older than 65, greater than the Commonwealth's generally (15.63%), and this age bracket is expected to increase to almost 25% of the City's population by 2030.<sup>28</sup> Second, the City's population is declining. Between 2010 and 2020, the City of Martinsville's population decreased from 13,821 to 13,485 persons, or by 2.43%.<sup>29</sup> Projections estimate that the City's population will continue to fall another 10.99% by 2030.<sup>30</sup>

According to the City's oral testimony, these demographic trends impact the City in several ways. The declining and aging population reduces the tax base for the locality as individuals retire or move away from the area. The aging population also means that a greater portion of the City's citizens are living on a fixed income. This phenomenon limits the overall spending capacity of the City's residents and increases economic sensitivity. Additionally, these trends lead to a decrease in the average daily membership (ADM) for the city's schools, leading to a higher ratio of fixed costs per student while reducing the amount of the Commonwealth's aid provided. All of these

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<sup>25</sup> U.S. Census Bureau, Small Area Income and Poverty Estimates (SAIPE) Program; Release date: December 2020. Retrieved from: <https://www.census.gov/data/datasets/2019/demo/saipe/2019-state-and-county.html>

<sup>26</sup> Ibid; City Reversion Notice, page 65

<sup>27</sup> Weldon Cooper Center: Data File: 7/1/2019 County Characteristics Resident Population Estimates. Retrieved from: <https://demographics.coopercenter.org/population-estimates-age-sex-race-hispanic-towns/>

<sup>28</sup> Weldon Cooper Center: Data File: 7/26/2019 Age and Sex. Retrieved from: <https://demographics.coopercenter.org/virginia-population-projections>. The percentage of individuals aged over 65 in Martinsville is projected to be 24.71% by 2030, compared to the Commonwealth's projected percentage of 18.47%.

<sup>29</sup> U.S. Census Bureau (2020). P1 Race. Retrieved from: <https://data.census.gov/cedsci/table?g=0500000U551089,51690&tid=DECENNIALPL2020.P2&hidePreview=true>

<sup>30</sup> City Reversion Notice, page 13, 55. When updating this trend based on the 2020 Decennial Census total population of 13,485 for the City, the percent decrease becomes 14.18%.

factors, in combination with the economic trends discussed above, continue to increase the fiscal stress facing the City while limiting its ability to provide assistance to its citizens.

In sum, these statistics demonstrate that the City is experiencing economic, social, and fiscal challenges that put financial stress on both its government and populace. However, due to its history and population density, the City remains a focal point for economic, corporate, and cultural life in the area with a significant concentration of governmental facilities, healthcare facilities, employers, retailers, and cultural establishments. Despite recent circumstances and demographic trends, the City remains an important component of the region and the Commonwealth as a whole.

### ***Henry County***

Henry County was initially established as Patrick Henry County in 1777 from parts of Pittsylvania County.<sup>31</sup> In 1785, part of the northern area of Patrick Henry County was combined with parts of Bedford County in order to form Franklin County, and in 1791, Patrick Henry County was divided into two separate counties, Patrick and Henry.<sup>32</sup> Since that time, the boundaries between the respective counties have remained unchanged.

The County's 2020 population estimate is 50,986, a 5.84% decline from its 2010 figure (54,151), and it has a population density of 133 persons per square mile.<sup>33</sup> In contrast to the City (see Figure 1), the County's population is predominantly White (67.34%), with another fifth identifying as Black or African American (21.71%) and another 6.48% as Hispanic or Latino.<sup>34</sup>

The County faces many of the same challenges as the City, although not quite at the same magnitude or severity. Like the City, the County experienced the same economic decline from the loss of manufacturing jobs since the 1980s due to globalization and other macroeconomic factors. The total number of employment positions in the County declined from 24,336 positions in 2007 to 22,641 in 2017, a decrease of 7.0%.<sup>35</sup> Similarly to the City, the County's unemployment rate has remained greater than the Commonwealth's average since 1990, but below that of the City over the same time period (See Figure 2).

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<sup>31</sup> County Response, page 6.

<sup>32</sup> Ibid.

<sup>33</sup> City Reversion Notice, page 13. The 2020 Decennial Census Redistricting Data (PL 94-171) has been released since the City's Notice was filed with the Commission. Accordingly, the total 2020 population for Henry County is 50,948 persons, which would establish a population decrease of 5.91%. Based on this data, the County's population density would be the same: 133 persons per square mile.

<sup>34</sup> U.S. Census Bureau (2020). P2 Hispanic or Latino, and Not Hispanic or Latino by Race. Retrieved from: <https://data.census.gov/cedsci/table?g=0500000US51089,51690&tid=DECENNIALPL2020.P2&hidePreview=true>

<sup>35</sup> City Reversion Notice, page 60.

The County has a poverty rate of 16.2%, with a similar percentage receiving SNAP benefits (18.7%).<sup>36</sup> The estimated median household income in the County was \$37,952 in 2019, or 51.2% of the Commonwealth's overall (\$76,471).<sup>37</sup> These figures - particularly the poverty rate and household income - indicate less pronounced stress than that of Martinsville, but still greater fiscal stress than Virginia's rates.

The County also faces similar, and in some cases more severe, demographic trends as the City. As of 2019, the median age of residents in the County was 48.0 years old, and nearly one fourth (23.59%) of its population was 65 or older.<sup>38</sup> This is nearly 10 years older than the Commonwealth's median age (38.6), and 8 years older than the City's median age. This age bracket is expected to grow to over 28% of the total countywide population by 2030, which is nearly 10% higher than the statewide proportion.<sup>39</sup> Its overall population was relatively constant between 2010 and 2020, but the aging population presents significant challenges for the County's overall economic growth.

The County faces many of the same challenges that Martinsville faces: an aging population, low median household incomes, and a reduction in total employment. Thus, both parties enter into the proceedings with economic, fiscal, and social pressures that must be taken into account throughout the reversion process.

## **PUBLIC FINANCE PROFILES**

A key component of the Commission's review is to characterize and evaluate the fiscal conditions of the City and County. Our evaluation will take into account several short and long term quantitative measures and analyze them together to provide a comprehensive view of the parties' fiscal health leading into the voluntary settlement agreement.

### ***City of Martinsville***

#### ***Primary Revenue & Taxation Base***

Over the past decade the fiscal situation of the City has consistently declined. In particular, the decrease in real estate valuations and the stagnation in taxable retail sales are alarming indicators

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<sup>36</sup> *Ibid*, page 65.

<sup>37</sup> U.S. Census Bureau, Small Area Income and Poverty Estimates (SAIPE) Program; Release date: December 2020. Retrieved from: <https://www.census.gov/data/datasets/2019/demo/saipe/2019-state-and-county.html>

<sup>38</sup> Weldon Cooper Center: Data File: 7/26/2019 Age and Sex. Retrieved from: <https://demographics.coopercenter.org/virginia-population-projections>

<sup>39</sup> *Ibid*.

of overall fiscal health. Between 2009 and 2018, the true valuation of property has decreased by 11.57%, the true valuation of public service corporations (PSCs) increased a modest 7.51%, and the growth in taxable retail sales at 1.21% has been meager when compared to the 30.99% growth seen by rest of the Commonwealth during this time period (see Table 2).

These facts taken together indicate significantly decreased revenue capacity and show that the City is experiencing below-average economic growth compared to the County and the Commonwealth generally. A decline in real estate valuation signals a decrease to the City's largest source of revenue, while the stagnant growth in taxable retail sales signals an absence of underlying economic activity and minimal wage growth. A decreased revenue capacity, absent other changes, will constrain the City's revenue collections and thereby its service provision capabilities. These limitations could potentially lead to additional hardship on the City's citizens.

**Table 2: True Property Valuations and Taxable Retail Sales for Parties and Commonwealth**  
(Values in thousands)

Locality		RE True Valuation	PSC True Valuation	Total Valuation	Taxable Retail Sales
City of Martinsville	2018	\$654.9	\$27.3	\$682.2	\$2.04
	2009	\$740.6	\$25.4	\$765.9	\$2.02
	% Change	-11.57%	7.51%	-10.94%	1.21%
Henry County	2018	\$3,094.0	\$192.1	\$3,286.1	\$4.65
	2009	\$3,207.9	\$149.0	\$3,356.9	\$3.74
	% Change	-3.55%	29.00%	-2.11%	24.37%
Virginia	2018	\$1,258,365.5	\$51,633.4	\$1,309,998.8	\$1,280.1
	2009	\$1,041,140.6	\$37,809.5	\$1,078,950.1	\$977.3
	% Change	20.86%	36.56%	21.41%	30.99%
<b>Sources:</b> Virginia Department of Taxation, The 2018 Virginia Assessment/Sales Ratio Study, August 2019; and The 2009 Virginia Assessment/Sales Ratio Study; and Auditor of Public Accounts, FY2019 Comparative Report of Local Government Revenues and Expenditures, March 2021.					

### ***Revenues & Revenue Collection Policies:***

The City has maintained constant real estate and personal property tax rates over the past five years, but increased its meals tax from 6.5% to 7% in 2017 to pay for school debt and finance

capital projects.<sup>40</sup> The City's current tax rates are \$1.01816/\$100 in assessed value for real estate and \$2.30/\$100 in assessed value for personal property.<sup>41</sup>

The City saw increased general revenue collections from \$30.3 million in fiscal year (FY) 2015 to \$33.9 million in FY 2020. That growth was driven by secondary revenue generators such as increases from the City's charges for services (from \$0.96 million in FY 2015 to \$2.4 million in FY 2020), and intergovernmental aid from the Commonwealth (from \$9.0 million in FY 2015 to \$10.4 million FY 2020 - the greatest share of the City's general fund revenues).<sup>42</sup> The intergovernmental aid, composed nearly entirely of grants from the Commonwealth, equals approximately a third (34.45%) of the City's total revenues. This high share of revenues coming from external sources indicates that the City has a higher dependence on external revenues than desired for a locality.<sup>43</sup>

Consequently, the marginal increase in general revenues was not driven by underlying economic growth. Rather, the revenues come from increasing ancillary taxes on its existing tax base and leveraging external sources of funding. These actions are inadequate long-term policies for increasing the City's revenues.

Additionally, over the past two fiscal years, the City has seen the percentage of delinquent taxes to tax levy double from 13.25% in FY 2018 to 21.54% in FY 2020, and has seen the percentage of total tax collections to taxes levy fall from 98.11% to 91.87%.<sup>44</sup> This fact provides further evidence for the limited success of the City's revenue generating policies. The high delinquency rate - where one in ten dollars of tax revenue is owed to the City - indicates that residents are unable to sustain the City's high revenue effort policies, or that the City's collections policies have changed substantially. Additionally, this increase in delinquencies was likely exacerbated by the COVID-19 pandemic, which further limited incomes in an already impoverished area.

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<sup>40</sup> Commissioner of the Revenue, City of Martinsville, Meal and Prepared Food Tax. Retrieved from: <https://www.martinsville-va.gov/government/commissioner-of-the-revenue/meals-and-prepared-food-tax-new>

<sup>41</sup> City of Martinsville, FY 2020 City of Martinsville Comprehensive Annual Financial Report (hereinafter cited as "FY 2020 City CAFR"), page 183.

<sup>42</sup> City of Martinsville, FY 2015 City of Martinsville Comprehensive Annual Financial Report (hereinafter cited as "FY 2015 City CAFR") page 36; FY 2020 City CAFR page 36.

<sup>43</sup> Auditor of Public Accounts, Monitoring for Local Government Fiscal Distress 2019 Report (hereinafter cited as "APA Fiscal Distress Report"), page 12. Note that while the Local Government Fiscal Distress 2020 Report is not published yet, the Commission was able to obtain the parties' most recently calculated ratios according to their reported FY2020 data from the APA. These most recently updated totals are referenced here. For more information on the methodology used in the report, refer to the APA's Monitoring for Local Government Fiscal Distress 2019 Report. Retrieved from:

<http://www.apa.virginia.gov/reports/MonitoringforLocalGovernmentFiscalDistress2019.pdf>

<sup>44</sup> FY 2020 City CAFR, page 185.

### ***Fund Balance Policy***

The City currently maintains a fund balance policy of holding unassigned funds equal to at least 10% of general fund revenues.<sup>45</sup> Localities implement fund balance policies as a conservative fiscal measure. These policies prescribe how much flexible funds a locality must have immediately available to respond to emergencies. The funds that count towards a fund balance percentage generally consist of the governmental fund's unassigned fund balance, which is the most flexible source of funds that a locality can draw upon in adverse circumstances, plus any designated reserves such as revenue stabilization funds.

Martinsville has adhered to this policy over the past ten years, providing one positive indication of the City's fiscal health. The City maintained an unassigned fund balance of \$4.9 million - 15.2% of annual revenues, and 5.2% above the policy minimum value - for FY 2020, along with an overall general fund balance of \$6.96 million.<sup>46</sup> This balance is nearly identical to its fund balance of \$4.1 million - 15.3% annual revenues - in FY 2015.<sup>47</sup>

### ***Enterprise Funds***

The City maintains four proprietary funds, including an electric, water, sewer, and refuse collection/landfill fund, which generated combined operating revenues of approximately \$29.9 million in FY 2020.<sup>48</sup> Martinsville's electric fund is the largest fund for the City, and generated approximately two-thirds of that operating revenue.<sup>49</sup>

The four funds have generated operating incomes since FY 2015, ranging from a high of \$4.9 million in FY 2017 to the current amount of \$3.96 million in FY 2020.<sup>50</sup> Approximately half of the operating income came from the electric fund, and another quarter from the water fund.<sup>51</sup>

Martinsville has transferred funds from its enterprise units to balance its governmental budget for every year since FY 2011.<sup>52</sup> These transfers provided substantial support for the City's government, ranging from a high of \$4.7 million from FY 2016 to the current value of \$1.5 million

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<sup>45</sup> City of Martinsville, Fund Balance Policy, FY2020. Information provided to the Commission.

<sup>46</sup> FY 2020 City CAFR, page 35.

<sup>47</sup> FY 2015 City CAFR, page 35.

<sup>48</sup> FY 2020 City CAFR, page 169.

<sup>49</sup> Ibid, page 39.

<sup>50</sup> Ibid, page 169.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

in FY2020.<sup>53</sup> In FY2020, the City made these transfers from its water and landfill funds (\$1.3 million from water fund, \$0.3 from landfill fund), rather than the larger electric fund.<sup>54</sup>

Transfers of this magnitude demonstrate that the City is reliant upon its enterprise funds for a substantial portion of its governmental revenues, another alarming indicator of poor fiscal health. Budgetary best practices are to reinvest any excess revenues in the source fund that produced them. A transfer from the enterprise fund, for instance, to the governmental fund indicates that governmental revenues are inadequate to cover expenses.<sup>55</sup>

In Martinsville's circumstance, the transfers out of the water and landfill funds into the governmental activities funds mean that either the enterprise funds are foregoing necessary expenses (e.g., deferring maintenance, debt payment, etc.) in order to support governmental activities, or the City is collecting revenues in excess of the amount needed to provide services. The repeated nature and size of the transfers indicate that this practice is longstanding and a critical part of balancing the governmental budget.

Testimony from the City's manager provides further explanation for the repeated transfers. He stated that the City has used surplus enterprise revenue to balance the government's general fund budget. He also testified that the City would be unable to continue the practice past FY2020, meaning the City will need to manage a substantial loss in revenues for upcoming fiscal years.<sup>56</sup> In sum, Martinsville's practices related to its enterprise fund are counter to budgetary best practices and indicate an inability to collect revenue from other, traditional tax sources.

### ***Capital Structure & Debt Service Policy:***

Under the proposed agreement, the new Town of Martinsville would remain responsible for repaying all long-term debt it incurred as a City. The primary government entities hold a total liability of \$71.0 million in FY 2020, split evenly between the City governmental funds and proprietary funds.<sup>57</sup> Of this, \$8.32 million is current debt due within the next year, with \$4.5 million in current debt for the governmental activity fund and \$3.8 million for the enterprise funds.<sup>58</sup>

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<sup>53</sup> Ibid.

<sup>54</sup> Ibid, page 39.

<sup>55</sup> The opposite also applies - a transfer from a governmental fund to an enterprise fund indicates that the enterprise fund is not collecting sufficient revenue to provide its services, meaning that its cost of delivery for services is too high, and/or the charges for services from users is too low.

<sup>56</sup> Testimony of Leon Towarnicki, City Manager for City of Martinsville, Oral Presentations, September 7, 2021.

<sup>57</sup> FY 2020 City CAFR, page 29.

<sup>58</sup> Ibid, page 39.

The Commission is unaware of a City comprehensive debt service policy dictating the maximum debt level for the locality. Therefore, the Commission used the ratio of debt service payments to total revenues to calculate the City's debt burden; this ratio is a standard measure of debt burden for local governments. This measure provides a metric indicating how much of a locality's government's general fund is needed per year in order to service debt. A generally accepted industry cutoff is no greater than 10% revenues going to debt service. The Commonwealth's Auditor of Public Accounts in its annual Fiscal Distress Report stated the City's overall debt service payments as a percent of total revenues equaled 4.36%, below the 10% threshold.<sup>59</sup> According to this standard, Martinsville is adhering to best practices, and has done so over the past five fiscal years.

***Net Position:***

The nominal net assets (which are all assets the City has (liquid and illiquid) minus all liabilities (current and noncurrent)) for the City equaled \$34.2 million, primarily coming from its capital investments in proprietary funds.<sup>60</sup>

Since the City's nominal net assets are buoyed by its capital investments from the proprietary funds, its positive position is illiquid as measured by the ratio of unrestricted reserves (cash and cash equivalents) to the City's total current and non-current liabilities. Martinsville's ratio, as calculated by the APA, is 46.16%; best practice would have a locality's ratio equal or greater than 60%, as higher ratios indicate a locality can meet its obligations without obtaining additional revenues through current liquid assets.<sup>61</sup>

Similarly, unrestricted net assets, which is another measure of the liquid assets a locality has on hand to manage expenditures in difficult economic times, have decreased substantially since FY2015 and were negative for FY2020 (approximately -\$0.65 million).<sup>62</sup> Unrestricted net assets reached a high of \$12.7 million in 2011 but saw a steep drop from 2014 to 2015 due to increased spending on governmental activities.<sup>63</sup>

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<sup>59</sup> APA Fiscal Distress Report.

<sup>60</sup> FY 2020 City CAFR, page 29.

<sup>61</sup> APA Fiscal Distress Report.

<sup>62</sup> FY 2020 City CAFR, page 29.

<sup>63</sup> Ibid, page 169.



## **Henry County**

### **Primary Revenue & Taxation Base**

The County's tax base and budget indicate that the County is in a better fiscal condition than the City, but is still under fiscal stress. As displayed in Table 2, the County's true valuation of real estate was equal to \$3.1 billion for 2018, representing a 3.55% decline from 2009. Unlike the City, however, this decrease in real estate valuations is marginally offset by the growth in the County's public service corporation valuation and taxable retail sales (which saw 29.0% and 24.4% growth, respectively, since 2009), which demonstrates higher economic activity in the County.

Despite these increases, the County's total valuation growth rate remains negative from 2009 - 2018, at -2.11%. The decrease in real estate valuation demonstrates a substantial decline in the core of the County's local revenues, decreasing the County's revenue capacity and tax base. Absent increases in either the County's tax rate or the increased valuation of its real estate, this will lead to a decline in the County's revenues and therefore its capability to provide services to its residents.

### **Revenues & Revenue Collection Policies:**

The County has increased both the real estate and personal property tax rates over the past five years by \$0.07 from FY 2016 to FY 2017, bringing its current real estate tax rate to \$0.555/\$100 in assessed value, and its personal property tax rate to \$1.55/\$100 in assessed value.<sup>64</sup> Additionally, although not reflected in the FY 2020 financials, the County's residents approved a 1% local option sales tax for school construction purposes, effective April 2021. This brings the sales tax rate for the County up to 6.3% (4.3% for the Commonwealth, the 1% local option, and the 1% school construction option), as compared to the 5.3% for the City.<sup>65</sup>

As a consequence of these increases, the County's revenues from governmental activities have increased substantially from \$50.1 million in FY 2015 to \$61.2 million in FY 2020.<sup>66 67</sup> The County's

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<sup>64</sup> County of Henry, FY 2020 County of Henry Comprehensive Annual Financial Report (hereinafter cited as "FY 2020 County CAFR"), page 143.

<sup>65</sup> Wyatt, Martinsville Bulletin, March 28th, 2021. Retrieved from:

[https://martinsvillebulletin.com/news/local/henry-county-set-for-sales-tax-hike-effective-april-1-to-pay-for-school-construction/article\\_d0040004-8e6f-11eb-a24f-07a60f050aff.html](https://martinsvillebulletin.com/news/local/henry-county-set-for-sales-tax-hike-effective-april-1-to-pay-for-school-construction/article_d0040004-8e6f-11eb-a24f-07a60f050aff.html)

<sup>66</sup> FY 2020 County CAFR, page 4.

<sup>67</sup> County of Henry, FY 2015 County of Henry Comprehensive Annual Financial Report (hereinafter cited as "FY 2015 County CAFR"), page 4.

revenue collections for primary government activities also increased over the same period from \$41.0 million to \$51.0 million.<sup>68</sup>

Even with increasing taxes and decreasing real estate valuations, the County is in greater fiscal health than the City. The primary source of revenue for Henry County is from its real and personal property taxes, rather than from external sources.<sup>69</sup> Furthermore, the delinquent tax to tax levied have remained constant between 12-13% over the past ten fiscal years, which can be contrasted with the stark increase seen by the City in the past two fiscal years.<sup>70</sup> Overall, this information demonstrates that the County's revenue increases are generated primarily from own-source revenues and are generally sustainable for the County's service provision level and its residents.

### ***Fund Balance Policy***

Similarly to the City, Henry County maintains a fund balance policy; however, the County strives to maintain a minimum unassigned fund balance of 15% of the General fund and School Operating Fund, minus the County's contribution to the School Operating Fund.<sup>71</sup> In addition to the 15% policy, the County also maintains a Revenue Stabilization Fund ("Rainy Day" fund) equal to 3% of revenues to further protect against adverse events.<sup>72</sup>

Henry County has adhered to both policies over the past 5 years. The County currently holds a total fund balance of \$108.0 million, of which \$33.3 million is unassigned.<sup>73</sup> The unassigned fund balance is 44.75% of total fund expenditures.<sup>74</sup> The County's ratio of unrestricted reserves - which the APA defines as unassigned, assigned, and revenue reserve funds - to total expenditures was 59.55%, well above the 15% threshold the APA sets as a minimum for fiscal distress.<sup>75</sup> In sum, Henry County's adherence to its fund balance policy over and above minimum values is a positive indication of fiscal health.

### ***Enterprise Funds***

In contrast to the City, the County does not maintain proprietary funds (excluding the Philpott Marina), as water and sewer is provided to County residents via the independent Henry County

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<sup>68</sup> FY 2020 County CAFR, p. 20 FY 2015 County CAFR, p. 20.

<sup>69</sup> FY 2020 County CAFR, page 4.

<sup>70</sup> Ibid, page 144.

<sup>71</sup> County of Henry, Fund Balance Policy, FY2020. page 5. Information provided to the Commission.

<sup>72</sup> Ibid.

<sup>73</sup> FY 2020 County CAFR, page 5.

<sup>74</sup> Ibid.

<sup>75</sup> APA Fiscal Distress Report.

Public Service Authority. However, in addition to the School Board, the County also lists its Industrial Development Authority and the Henry County/Martinsville Social Services Board as component units of government.<sup>76</sup>

### ***Capital Structure & Debt Service Policy***

Nominal debt for the County has increased substantially between FY 2015 to FY 2020, from \$24.1 million to \$138.9 million.<sup>77</sup> However, the vast majority of this debt is due to the issuance of bonds for capital investments, including for the construction of a new jail facility in the County.<sup>78</sup> Of these total liabilities, \$2.3 million is current debt service owed by the County and due within the next year.<sup>79</sup>

In contrast to the City, the County does have financial policies regarding debt service. These require that tax supported debt service remain at less than 8% of the County's operating budget.<sup>80</sup> For FY 2020, the ratio of debt service to general government expenditures was 3.76%, with a total payment of \$5.9 million.<sup>81</sup> The County's total debt service payments as a percent of total revenues equaled 7.10%, below the 10% best practice threshold and well below the 20% threshold used by the APA to indicate fiscal distress.<sup>82</sup> According to these standards, Henry County is adhering to debt management best practice and its own fiscal policy, and has done so over the past five fiscal years.

### ***Net Position***

Henry County's nominal net assets have increased since FY 2015 from \$55.2 million to \$67.1 million in FY 2020.<sup>83</sup> Additionally, net unrestricted assets have increased in this time period from \$27.7 million in FY 2015 to \$41.4 million in FY 2020.<sup>84</sup>

The County maintains a positive net position but holds slightly less liquid assets than the City. The ratio of unrestricted reserves to total liabilities was 42.02%, four percent lower than the City's ratio.<sup>85</sup> However, the high level of bonded debt for capital projects is the main driver behind the score, as the County holds significantly more in cash and liquid liabilities than the City. The

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<sup>76</sup> FY 2020 County CAFR, page 10.

<sup>77</sup> FY 2020 County CAFR, page 44.

<sup>78</sup> Ibid.

<sup>79</sup> Ibid, page 45.

<sup>80</sup> County of Henry, Fund Balance Policy, FY2020, page 12. Information provided to the Commission.

<sup>81</sup> FY 2020 County CAFR, page 158.

<sup>82</sup> APA Fiscal Distress Report, page 36.

<sup>83</sup> FY 2020 County CAFR, p. 10; FY 2015 County CAFR, page 10.

<sup>84</sup> Ibid.

<sup>85</sup> APA Fiscal Distress Report.

County's positive net unrestricted position further supports this fact, as it indicates increases in unrestricted reserves to cushion against adverse financial events.

### ***Fiscal Stress of the Parties*** <sup>86</sup>

In addition to examining the parties' financial statements and audited reports, further evidence of the parties' fiscal conditions is revealed by the Commission's annual Fiscal Stress Report.

This report takes into consideration three variables: the revenue capacity of a locality, defined as how much revenue it would expect to collect if taxing with statewide average tax rates; the revenue effort of a locality, defined as the ratio between the calculated revenue capacity and actual collections; and the median household income of the locality.<sup>87</sup>

Each of these factors are weighted equally to calculate a locality's fiscal stress score. The scores are then normalized so that the statewide average fiscal stress rate will always equal 100. Fiscal stress scores above that value are considered above average or high fiscal stress, while scores below it are considered below average or low fiscal stress.

**Table 3:** Fiscal Stress Scores and Rank, by Fiscal Stress Index Component

Indicator	City of Martinsville		Henry County	
	Value	Rank	Value	Rank
Revenue Capacity	\$1,354.06	5 <sup>th</sup> Lowest	\$1,443.43	9 <sup>th</sup> Lowest
Revenue Effort	1.4971	5 <sup>th</sup> Highest	0.7424	82 <sup>nd</sup> Highest
Median Household Income	\$37,814	7 <sup>th</sup> Lowest	\$41,908	17 <sup>th</sup> Lowest
Fiscal Stress Score	106.97	3 <sup>rd</sup> Highest	102.32	33 <sup>rd</sup> Highest
<b>Source:</b> Commission on Local Government, Report on the Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities, FY 2019				

For FY 2019, the City was the third most fiscally stressed locality among Virginia's 133 cities and counties. This ranking is a consequence of the City possessing one of the lowest revenue capacities in the Commonwealth while simultaneously adhering to one of the highest revenue

<sup>86</sup> The data in this section is entirely from the Commission on Local Government, Report on the Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities, FY 2019, September 2021 (hereinafter cited as "FY 2019 Fiscal Stress Report") unless otherwise noted. For more information, the report is retrievable from the Department of Housing and Community Development's webpage:

<https://www.dhcd.virginia.gov/sites/default/files/Docx/clg/fiscal-stress/fiscal-stress-final-copy.pdf>

<sup>87</sup> These analyses are based on a Virginia-adapted "representative tax system" (RTS) methodology, which establishes a theoretical level of revenue capacity for each county and city in the Commonwealth derived from several local revenue-generating "sources" and the statewide average "yield rate" for each.

effort policies (with its revenue capacity at about 50% of the statewide average and its revenue effort at over 160%). Furthermore, the City has nearly the lowest median household income in the Commonwealth, as discussed in the City and County profiles. As such, the City was classified as experiencing "High" fiscal stress. These trends in fiscal stress have remained constant over the past decade, with the City consistently remaining in the "high" fiscal stress category.

The County faces similar fiscal stressors in terms of its revenue capacity and median household income, which were only marginally above the City's levels (with its revenue capacity and median household income at 60% and 67% of the statewide averages used in calculations, respectively). However, the County's revenue effort is considerably lower than the City's, leading to it being ranked 33rd out of 133 in terms of fiscal stress. Given this evidence, the FY 2019 report classifies Henry County as experiencing "above average" fiscal stress.

## STANDARDS FOR REVIEW

As stated above, the Commission is charged with reviewing proposed interlocal agreements negotiated under the authority of Section 15.2-3400 of the Code of Virginia for purposes of determining whether such settlements are "in the best interest of the Commonwealth." In our judgment, the Commonwealth's interest in this and other proposed interlocal agreements is fundamentally the preservation and promotion of the general viability of the affected localities. In this instance, the Commission is required to review an interlocal agreement that (1) provides for Martinsville's reversion from city to town status, (2) addresses the allocation of governmental services following that change in governmental structure, (3) identifies the transfer of certain properties, (4) delineates the sharing of certain revenues, (5) provides for a temporary moratorium of annexation rights, and (6) other matters. A proper analysis of the proposed City of Martinsville-Henry County VSA, as mandated by statute, requires consideration of the ramifications of these provisions with respect to the current and future viability of the two jurisdictions.

### ***Interests of the City of Martinsville***

As part of the VSA, the transition of the City to town status will provide relief from economic and fiscal challenges by shifting the responsibility for certain major public services to the County, an entity with greater fiscal capacity than the City.<sup>88</sup>

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<sup>88</sup> VSA Notice, Sections 2 through 7.

The City's reversion would also restore its authority to extend its boundaries through annexation after a mutually proposed term of ten years.<sup>89</sup> While the legislature legally barred annexation by cities in 1987, it has not imposed similar restrictions on annexation by the Commonwealth's towns. Recognizing the distinction between the effects of city and town annexation, the latter have been permitted to continue pursuant to the traditional test of "necessity" and "expediency."<sup>90</sup> It is clearly in the interest of the City to have an opportunity to share, subject to full and proper consideration of the standards and factors prescribed by law, in revenues derived from the development which has occurred around its periphery.

### ***Reversion***

Regarding public services, the reversion will establish a traditional Virginia town-county relationship between the two jurisdictions. The agreement obliges Henry County to provide all services required by general or special law to the territory of the former City. As such, the remaining responsibilities of the resulting Town would be governance and funding of public safety services (law enforcement, fire protection, emergency management services [EMS]); utility services (water, sewer, electricity); animal control; public works; street and sidewalk maintenance; solid waste collection; erosion and sediment control program; stormwater management program; building code inspections and enforcement; MINet services; maintenance of public thoroughfares; parks and recreation facilities; and land development regulation. Other public services that were formerly provided by the City directly (or jointly in some cases) such as public schools, public health, social services, behavioral health services, jail operations, election administration, and all constitutional offices, will become the responsibility of the County.<sup>91</sup>

When considering public service responsibilities, the proposed reversion of the City to town status will provide significant financial relief to the prospective Town. An analysis of the reversion, based on FY 2020 audited data, indicates that the reversion alone should result in a \$27.5 million (33.8%) reduction in total expenditures by the City from \$81.2 million to \$53.7 million.<sup>92</sup> This reduction would be driven by reduced spending on administration, public safety, and most notably the City's school system.

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<sup>89</sup> *Ibid*, Section 9.

<sup>90</sup> In addition, §15.2-4117 of the Code of Virginia generally restricts town-initiated annexations for a period of two years subsequent to the effective date of the transition of a city to town status. However, in the proposed agreement, the City and County have mutually agreed to an annexation moratorium for a period of 10 years following the effective date of reversion and subject to additional revenue sharing provisions.

<sup>91</sup> *VSA Notice*, Sections 2 through 7.

<sup>92</sup> Stover, Taylor, CPA. Robinson, Farmer, Cox Associates, PLLC. Six-Year Forecast of Reversion for City of Martinsville and Henry County (hereinafter referred to as "RFCA Analysis"), 8/29/2021, "Summary" table.

When the City reverts to town status, it will have the opportunity to construct a new tax structure to meet its general fund needs. For the purpose of determining potential future revenues and the impacts post reversion, the City's consultant kept reversion tax rate neutral for the town's residents.<sup>93</sup> Based on the same analysis mentioned above, the Town will initially begin with a slight deficit for FY 2021 through FY 2023, but will see surpluses starting in FY 2024.<sup>94</sup>

### ***Annexation and Revenue Sharing***

In regards to annexation, the VSA restricts the City's ability to annex new land upon reversion to town status for a period of ten years.<sup>95</sup> While previous Commission reports suggest a greater urgency for a newly formed Town to receive the advantages of annexation power, it is the Commission's view that the proposed revenue sharing provisions in the VSA are an acceptable compromise. Under the agreement, the Martinsville Industrial Park, which is a property located within the County and adjacent to the current City, will become subject to revenue sharing as part of the Patriot Centre Revenue Sharing Agreement on the effective date of reversion.<sup>96</sup> The Patriot Centre Revenue Sharing Agreement shall be modified regarding the debt Martinsville owes to the County in order to allow Martinsville to realize the revenue stream assigned to Martinsville thereunder.<sup>97</sup> Upon completion of Martinsville's ten-year moratorium of annexation rights, the revenues from the Martinsville Industrial Park and the Patriot Centre at Beaver Creek Industrial Park that are to be shared as calculated under the Patriot Centre Revenue Sharing Agreement shall be pooled and shared between Martinsville and the County at a ratio of two-thirds for the County and one-third for the City.<sup>98</sup>

The Commission finds that this proposed model deferring Martinsville's power to annex for a period of ten years is sufficiently compensated by the proposed revenue sharing agreements as

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<sup>93</sup> The City of Martinsville's Commissioner of the Revenue submitted evidence to the Commission that the City could not keep a neutral tax rate upon reversion because such a tax rate would violate the Personal Property Tax Relief Act, §58.1-3523, et seq, of the Code of Virginia. By acknowledging the fact that the City's consultant used neutral tax rates, the Commission does not pass any judgement on the validity of the Commissioner's claims for two reasons: 1) As stated in the Findings and Recommendations section, *infra*, the Commission is not authorized to make findings of law, e.g., by determining whether a certain tax rate would violate a certain statute, and 2) the ultimate post-reversion tax rate is a political decision that will be decided by the new Town Council, not the Commission or the City's consultant. Regardless of the fact that the consultant used neutral rates, the future town is free to set its tax rates as it sees fit in accordance with the laws and Constitution of Virginia and the United States.

<sup>94</sup> RFCA Analysis, "Summary" Table.

<sup>95</sup> VSA Notice, Section 9.01, page 14.

<sup>96</sup> Ibid, Section 8.02.

<sup>97</sup> Ibid.

<sup>98</sup> Ibid, Section 8.

modified within the VSA that will allow Martinsville to draw revenue from the adjacent properties immediately and perpetually.

### ***Overall Fiscal Impact***

The overall fiscal impact of reversion offers the City the opportunity to strengthen its fiscal condition through offering new avenues for revenue growth and/or cost savings resulting from a transfer of certain service responsibilities to the County.

The most promising avenue for revenue growth for the Town would be through annexation, and the growth of the Town's taxation base. Additionally, reversion could offer economic development opportunities in the City through collaboration between the new Town and County, further potentially increasing revenues; the most notable example here is through amendments to the Patriot Centre Revenue Sharing Agreement. Furthermore, reversion could help the City avoid continually facing some of its difficult perpetual financial and operational policy decisions, including going below its 10% unassigned fund balance policy, deferring capital equipment cost needs, personnel cuts, and shifting to a greater reliance on borrowing.<sup>99</sup> Finally, although the City is obligated to lease its facilities at cost to the County, it will maintain the leases for those capital assets. Given the importance of capital assets to the City's overall fiscal position, maintaining leases allows the City to keep those assets on its balance sheet after reversion, while simultaneously offering avenues to cut costs. Additionally, in the event the County no longer needs to utilize the spaces offered in the VSA, the City would then have additional space available to augment or expand its services as a Town.

In terms of cost reduction, reversion offers the City significant expenditure reductions through the transfer and consolidation of many public services to the County, including administration of government, public education, public and mental health and social services, and others. In short, reversion presents an alternative to improve the ongoing fiscal condition of the City.

### ***Summary***

As a result of the reversion and the terms of the VSA, the overall fiscal impact to the newly reverted Town should result in a significant reduction in expenditures. In addition to addressing pressing fiscal concerns, the terms of the agreement appear to be in the best interest of the City for other reasons as well. First, the proposed agreement will preserve Martinsville as a distinct and active political entity. The ability of the Town to retain its separate community identity is an important element in the maintenance of citizen attachment. Second, the transition to town status will enable the Town to focus more of its resources on the enhancement of its physical

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<sup>99</sup> Testimony of Leon Towarnicki, City Manager for City of Martinsville, Oral Presentations, September 7, 2021.



infrastructure, which will have the effect of improving the social and economic health of the municipality. Third, as a town, the County will have a direct economic interest in Martinsville's growth and viability. Finally, the increased cooperation between the parties created by incorporation of the Martinsville Industrial Park as part of the revenue sharing agreement promotes strong intergovernmental cooperation between both political entities. In our judgment, for the reasons specified, the agreement is in the best interest of the City.

### ***Interests of Henry County***

The proposed reversion of the City to town status would result in increasing the County's land area by 11.01 square miles (a 2.86% increase) and its population by approximately 13,485 persons (a 26.47% increase).<sup>100</sup> Based on 2019 data, the County's total assessed property values would increase by \$774.7 million (a 20.04% increase).<sup>101</sup> While the reversion contemplated by the proposed VSA will increase the County's responsibilities, it will also have, in our judgment, a long-term positive impact on the County. Despite the additional service responsibilities and fiscal strains placed on the County, there are other matters - including those provided for in the proposed VSA - that will mitigate these negative effects and that the County has been able to negotiate to make adopting the VSA in its best interest. Indeed, without participating in the VSA, the County would have been subjected to greater uncertainty over the terms and conditions if the special court affirmed Martinsville's reversion request.

### ***Incentives***

The information presented above indicates that the transition of the City to town status as called for in the proposed agreement will increase the public service demands and by extension fiscal constraints on the County. However, the General Assembly has enacted measures designed to encourage reversion of independent cities and to financially assist the counties affected by such actions, which are summarized below:

- *General Aid from the Commonwealth.* To avoid the potential that reversion may result in a reduction in the distribution of state aid to affected jurisdictions, Virginia law provides that, in situations where school divisions or constitutional officers are consolidated among two localities (in this instance, both are applicable), aid for any governmental program or function shall not be reduced below the amount previously distributed to the affected localities as a consequence of the reversion action. This

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<sup>100</sup> U.S. Census Bureau (2020). P1 Race Retrieved from:  
<https://data.census.gov/cedsci/table?t=Populations%20and%20People&g=0500000US51089,51690&tid=DECENNIALPL2020.P1>

<sup>101</sup> City Reversion Notice, pages 14 - 15.

provision will ensure that, for a period of 15 years, the County will continue to receive at least as much funding from the Commonwealth as the existing City and the County together would have received had the reversion to town status not occurred.<sup>102</sup>

- *Educational Assistance.* Standard of Quality payments to school divisions are currently paid on the basis of a composite index established by the Board of Education, which is intended to be a calculation of the locality's ability-to-pay for public education. Previous provisions within the Appropriations Act established an incentive for the consolidation of school divisions that ensured that the consolidated school division's state assistance would be calculated using the lowest composite index score among the merging school divisions prior to consolidation. Such incentive payment would remain in effect for 15 years, unless the Board of Education calculated a lower composite index for the combined school division.<sup>103</sup> However, based on (1) the significant fiscal obligations the incentive payment imposed on the Commonwealth with the most recent city-to-town reversion, and (2) the fact that the localities involved in the most recent reversion had already consolidated most of their school division functions, this incentive payment was stricken from the budget and replaced with language indicating that future additional state funding would be established in future Appropriation Acts.<sup>104</sup> While there is uncertainty about what incentive payment - if any - the Commonwealth will provide for this potential reversion and future reversions, the parties have agreed to jointly request the same former incentive be applied to the consolidation of the school divisions following the effective date of the reversion.<sup>105</sup> Based upon evidence shared with the Commission, this amount would be instrumental in easing the transition to the merged school division.<sup>106</sup>

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<sup>102</sup> §§15.2-1302 and 15.2-4116 of the Code of Virginia.

<sup>103</sup> Item 139 (A)(4)c.1, Chapter 2, Acts of Assembly, 2012, Special Session I; Item 173 (A)(4), Chapter 684, Acts of Assembly, 1982. The language in the 1982 Act only provided incentive funding for the duration of the biennium; however, this was eventually extended to 15 years.

<sup>104</sup> Item 145 (A)(4)c.1, Chapter 552, 2021 Acts of Assembly, Special Session I; Salmon, Richard, Ed. D., "A Study Update Regarding the Feasibility for Consolidation of Martinsville City and Henry County School Divisions," December 2019, pages 46 - 48.

<sup>105</sup> VSA Notice, Section 11.06.

<sup>106</sup> Salmon, Richard, Ed. D., "A Study Update Regarding the Feasibility for Consolidation of Martinsville City and Henry County School Divisions," December 2019, pages 66 - 67. The study indicates that it would be impossible to project state aid for the merged school division for FY2021 and going forward; but based on FY2019 and FY2020 data, the study projects that the school division would have a gain of approximately \$2 million due to the economies of scales realized in the new division. This saving comes from the use of a slightly higher projected LCI of 0.2226 (Martinsville's LCI is 0.2255 and Henry County's LCI is 0.2135), and does not include any impacts of potential General Assembly action.

## **Reversion**

The reversion will simultaneously provide Henry County with additional population and fiscal resources and present the County with increased public service responsibilities and associated fiscal demands. As noted previously, following the effective date of reversion, the proposed agreement calls for the County to assume full responsibility for the funding of the constitutional officers, judicial system and local corrections, public education, public and mental health and social services, and election officials and processes within the former City.<sup>107</sup>

Despite the increased service demands, the agreement provides for several matters that may ease the transition of responsibility for such services to the County. First, the agreement contains multiple provisions that will guide the transition of City's constitutional officer functions to the County.<sup>108</sup> The agreement provides that the respective constitutional officers of the City and the County shall cooperate in the transition of their services by ensuring access to records and the transfer of certain personal property.<sup>109</sup> Furthermore, the agreement more specifically establishes that Martinsville shall offer to lease, at cost, office space previously occupied by the City's Commonwealth's Attorney, General District Court and Circuit Court Clerk, to the County counterpart.<sup>110</sup> Additionally, while Martinsville would retain title to the City Jail, Metal Annex, and Prison Farm, it would be obligated to lease, at cost, these facilities to the County in order to compensate the County for the loss of its anticipated surplus jail space when its new facility comes online.<sup>111</sup>

Second, the agreement includes multiple provisions regarding the transfer of school properties from Martinsville to the County and other school-related matters. The City has agreed to transfer titles to one elementary school, middle school, and high school to the County School Board.<sup>112</sup> While several other school facilities would be retained by the Town of Martinsville, the

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<sup>107</sup> Ibid.

<sup>108</sup> VSA Notice. There appeared to be some degree of confusion between the parties based on testimony during the Oral Presentations regarding the transition of cases on the docket of the Martinsville Circuit Court to Henry County, but Section 4 of the VSA establishes a process for this transition to occur smoothly and under the stewardship of the Chief Judge of the Circuit or District courts.

<sup>109</sup> Ibid. At the public hearing, the City of Martinsville's Commissioner of the Revenue stated that these provisions violate §15.2-1600 (B) of the Code of Virginia. As stated in footnote 96, *supra*, and in the Findings and Recommendations section, *infra*, the Commission does not pass any judgement on the validity of the Commissioner's claims because the Commission is not authorized to make findings of law.

<sup>110</sup> Ibid.

<sup>111</sup> Testimony by Tim Hall, County Administrator for Henry County, Oral Presentations, September 7, 2021.

<sup>112</sup> VSA Notice, Section 5.04. The schools being transferred are Albert Harris Elementary School, Martinsville Middle School, and Martinsville High School. The County would be required to permit use of the Martinsville High School auditorium by Martinsville and others for various regional civic purposes subject to the County's authority over approving, coordinating, and scheduling such events.

agreement establishes that if Martinsville is not actively pursuing redevelopment, as defined, of such facilities, then title for such facility shall transfer to the County.<sup>113</sup> Furthermore, both parties have agreed to engage in an advisory School Operations Study to consider various school matters in the wake of the dissolution of Martinsville's Public School Division, and the County Public School Division would retain ultimate authority over which recommendations from the study, if any, to implement.<sup>114</sup> Testimony from the Henry County Superintendent indicated that the new school division could see benefits from an economy of scale, providing for increased opportunities for electives, specialized courses, and other educational opportunities.<sup>115</sup> These would be in addition to any savings realized from the reversion.

The County would also be entitled to full governance of the health department and department of social services, both of which are currently jointly operated and funded by the City and County, and the City would be required to convey all its interests in the real property and personal property for both such entities to the County.<sup>116</sup>

In our view, while the County will face increased service responsibilities resulting from the reversion, provisions within the VSA help mitigate these impacts with practical matters such as space and property that will be some of the most essential, immediate needs of the County while longer-term plans are formulated.

### ***Annexation and Moratorium***

Although reversion of the City to town status will provide Martinsville the ability to annex, the agreement establishes a ten year moratoria on annexation following the effective date of the reversion, thus giving the County needed tax revenue and stability.<sup>117</sup> Furthermore, Martinsville has agreed not to endorse or support any voter-initiated proceedings for annexation of territory in the County.<sup>118</sup> Additionally, the agreement connects the annexation moratorium to other agreement provisions related to revenue sharing between the Martinsville and the County such that Martinsville would no longer be eligible to receive proceeds from such revenue sharing agreement and would be liable for any remaining associated debt if it violates the annexation

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<sup>113</sup> *Ibid*, Sections 5.03.01 through 5.03.04 and Section 5.04. Also, during the County's oral presentations, there was discussion of Martinsville potentially transferring title of Clearview Early Childhood Center to Henry County for purposes of advancing Henry County's ability to develop an early childhood education program comparable to Martinsville's existing program.

<sup>114</sup> *Ibid*, Section 5.06.

<sup>115</sup> Testimony by Sandy Stayer, Superintendent for Henry County Public Schools, Oral Presentations, September 7, 2021

<sup>116</sup> *VSA Notice*, Section 5.06.

<sup>117</sup> *VSA Notice*, Section 9.01.

<sup>118</sup> *Ibid*; §15.2-3203 of the Code of Virginia.

moratorium provisions of the agreement.<sup>119</sup> In the Commission's view, this appears to be a reasonable compromise that will provide greater assurance to the County, especially concerning growth and development of these areas and exclusive increases to the County tax base as these areas develop over that time period.

Additionally, in the longer-term, if Martinsville as a town chooses to annex territory from the County, the Town will assume responsibility for providing certain municipal services in these areas, including law enforcement, street maintenance, public works, and planning and development control, which should reduce to some degree the demand on the County's staff and resources. In addition, future opportunities for annexation will permit the Town to increase its fiscal potential by expanding its tax base, will assure the town can reserve land for future development and, accordingly, will expand the Town's ability to serve the general area. In brief, the enhanced financial viability of the Town will be a positive factor in strengthening the economy of the general area, with economic benefits accruing to the citizens of the County both inside and outside of the Town boundaries.

### ***Fiscal Stress***

The estimated impact of the proposed reversion on the revenue capacity, revenue effort, and median household income statistics of the County, as measured by the representative tax system, suggests that the City's transition to town status would have a relatively minor effect on the County's fiscal stress ranking. The City and County share similar revenue capacities per capita and median household incomes - the incorporation of the City to a Town will have minimal effect on these elements. The only factor that is substantially different between the two parties is their revenue effort. The impact of reversion on this element is unknown because the fiscal stress methodology would be difficult to apply in such an isolated fashion.<sup>120</sup> The degree to which these factors will change is unknown because they are determined by local policy decisions across the Commonwealth; however, the County has shared that it expects the reversion to trigger an \$0.08 increase in real estate taxes if the net fiscal impacts to the County were addressed exclusively through an increase to its real property tax rate.<sup>121</sup>

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<sup>119</sup> VSA Notice, Section 9.01.

<sup>120</sup> Revenue capacity per capita measures how much tax revenue a locality could collect per person from its base if it used statewide average rates. A locality's revenue effort is computed as its own-source revenue collections divided by its revenue capacity. A jurisdiction's median household income represents the point at which half of households earn a higher income and the other half earns a lower income. These scores are based on statewide averages, so isolating the impact to Henry County from reversion would not fully address the relative nature of the report's methodology.

<sup>121</sup> County Response, page 27.

While potential fiscal stress scores could not be calculated for this scenario, the Commission expects that reversion would lead to a lower revenue capacity, a higher revenue effort, and a lower median household income for the County, causing an increase in the County's fiscal stress score. However, this will likely be a minimal, if realized at all, increase on the part of the County.<sup>122</sup> Additionally, the fiscal stress score does not account for any potential economies of scale realized through reversion or any new economic growth or opportunities afforded to the County by reversion. These could influence the locality's revenue capacity or median household income such that it reduces fiscal stress for the County.

Furthermore, the Commission can only state the broad impact reversion will have on the County's fiscal stress score, as a precise calculation is exceedingly complex.<sup>123</sup> Therefore this analysis of the three primary components of the Fiscal Stress Index should be used as an estimate only.

### ***Summary***

Beyond the immediate fiscal impact of the proposed reversion, there are other significant long-term benefits that the County will enjoy. Such benefits include the more efficient use of public resources, elimination of undesirable competition among separate units of government, and an enhanced ability to engage in long-range planning efforts for the future development of the entire community. Further, to the extent that the reversion will enhance the fiscal viability of the Town of Martinsville, the overall economy of the enlarged County will be strengthened.

The transition of the City to town status and the terms of the VSA provide an opportunity to reintegrate two adjoining and historically close jurisdictions, and the utilization of a VSA ensures that the County's interests are protected throughout the reversion. Moreover, our review of the current and prospective fiscal status of the County indicates that the proposed reversion will have a moderate impact on the County and that such impact may be fully or partially mitigated in new economies of scale and efficiencies resulting from such reversion. In sum, we find the proposed agreement to be in the best interest of the County.

### ***Interests of the Commonwealth***

The Commission notes that the proposed agreement between the City and the County is the product of negotiations conducted under a state-established process that encourages the

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<sup>122</sup> Furthermore, the precise rank of the County will depend on the policies of all other localities in the Commonwealth because the fiscal stress index is a relative measure. Any impacts from reversion will be seen two years after the effective reversion date because of the general two-year lag in data availability for each report.

<sup>123</sup> This is because performing a precise calculation with current values would require 1) the unit level value or total valuation of Martinsville property/taxable income and 2) application of the appropriate Henry County tax rates for all categories of that taxable income. Additionally, a precise calculation using future values would require knowing the three variables for all other Virginia localities, as the fiscal stress score is a relative measure.

negotiated settlement of interlocal issues. By establishing this negotiation process, the Commonwealth has expressed its desire for local governments to affect a resolution of their interlocal concerns within parameters established by law and without litigation. This agreement, which constitutes a fairly negotiated reconciliation of the needs and interests of the City and County, is consistent with the interest of the Commonwealth in the promotion of negotiated settlements.

The principal interest of the State in the resolution of this and all interlocal issues subject to the Commission's review is the preservation and promotion of the viability of the affected localities. Therefore, the Commission finds that the proposed agreement between the City and County would promote the viability of the two jurisdictions. As previous sections of this report have indicated, the provisions in the settlement agreement that facilitate (1) the transition of the City of Martinsville to town status and (2) the transfer of certain service responsibilities to Henry County will enhance the fiscal well-being of Martinsville in addition to providing greater economies of scale for such service delivery requirements in the long run. Additionally, the County, and by extension its taxpayers, is protected from annexation by the municipality for a period of time in excess of the two-year minimum provided in the reversion statute.

In a general sense, the Commonwealth will also benefit from the economies of scale that will be achieved from this reversion agreement. The Commonwealth will no longer be obligated to fund the five constitutional officer positions if Martinsville reverts. Furthermore, in the long-run, as the communities benefit from greater economies of scale, that could translate into operational efficiencies and service delivery improvements that may reduce the Commonwealth's fiscal obligations that would otherwise continue unabated with the status quo.

The Code of Virginia also promotes, rather than hinders, reversion in circumstances such as this when the matter has been negotiated between the affected parties. The Voluntary Settlement Agreement process was established by the General Assembly in "recognizing that the localities of the Commonwealth may be able to settle the matters provided for in this subtitle through voluntary agreements and further recognizing that such a resolution can be beneficial to the orderly growth and continued viability of the localities of the Commonwealth."<sup>124</sup> Therefore, absent evidence to the contrary, we can conclude that this agreement is in the best interest of the Commonwealth given the parties' adherence to this process and also the Commission's findings that the agreement is in the best interest of the City and the best interest of the County.

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<sup>124</sup> §15.2-3400 of the Code of Virginia.

## FINDINGS AND RECOMMENDATIONS

### ***Findings Overall***

In the preceding sections of this report, the Commission has reviewed a proposed voluntary settlement agreement negotiated by the City of Martinsville and Henry County addressing the interests of the two jurisdictions. Based upon that review, we find that the agreement promotes the viability of both local governments and is consistent with the best interests of the Commonwealth. Accordingly, we recommend the court's approval of the agreement.

In making this recommendation, the Commission does not reach or suggest any conclusions about the legality of any of the terms of the VSA or the process that the two jurisdictions used to come to said agreement. Such findings of law would be beyond the powers of the Commission and outside the scope of this report. We emphasize that we are bound by statute “to investigate, analyze, and *make findings of fact, as directed by law*” in all matters brought before us.<sup>125</sup> The law, in this case, narrowly directs The Commission to “report, in writing, [our] findings and recommendations as to *whether the proposed settlement is in the best interest of the Commonwealth.*”<sup>126</sup> Whether a proposed settlement is in the best interest of the Commonwealth is inherently a finding of fact determined by the evidence and testimony presented to the Commission at the hearings referenced in this report. It is not a finding of law. Any findings of law should be determined by a court of appropriate jurisdiction.

### ***Recommendations***

While finding the agreement to be in the best interest of the two jurisdictions and the Commonwealth, there are several matters which we would like to speak to. The agreement represents a policy adoption; the City and County have adopted a voluntary settlement agreement to coordinate the activities of the reversion of the city to a town. The Commission agrees that the voluntary settlement agreement is in the best interests of the City, County and Commonwealth. However, the Commission has concerns about the policy implementation of this agreement and believes that the recommendations provided below can inform the implementation of the voluntary settlement agreement and the reversion process in a way that would further support the parties' and Commonwealth's best interests. *Overall, these recommendations are supplemental to our analysis and do not in any way detract from our conclusion that the agreement is in the best interest of the Commonwealth.*

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<sup>125</sup> §15.2-2903, Code of Virginia (emphasis added).

<sup>126</sup> §15.2-3400, Code of Virginia (emphasis added).



## ***Equity***

Equity-related issues were the most consistent topics that the Commission heard during the public hearing and overall public comment period. Over 100 individuals attended the Commission's public hearing, and the Commission received thirteen additional public comments prior to the close of its public comment period. The majority of these comments centered on equity matters, especially those that are discussed in the following paragraphs.

As described in the City and County profile sections, the City is one of the most racially diverse areas in the region, and hosts a primarily Black or African American population compared to the County. During the public hearing offered by the Commission, citizens voiced concerns over the impact reversion would have on Black students who would have to be integrated into County schools, community engagement, and the impact on the City's voting power when included in the County Board of Supervisors and School Board districts.<sup>127</sup> These concerns bring to mind the long history of racial tension caused by historic injustices imposed upon - including systemically - minority populations. The ongoing pandemic has generally played a role in exacerbating issues related to this topic. While both communities experience elevated levels of poverty and unemployment, this matter is more acutely experienced within the City among its minority populations, who historically have been marginalized and underrepresented in local governments. The proposed agreement between the City and County does not speak to these matters directly with one exception.<sup>128</sup> In our review, the Commission seeks to address these concerns, and offers recommendations to promote the equitable incorporation of Martinsville into the County.

One issue of equitable service delivery after reversion is different early childhood education programs. The City has offered universal three and four-year-old early childhood education services at Clearview Early Childhood Education Center while the County only provides this service to 4-year-olds who qualify based on need.<sup>129</sup> The County has stated a preference to expand the program for all four-year-olds once the County can financially support the program with subsequent expansion to three-year-olds based upon the same policy.<sup>130</sup> We encourage the County to pursue as expeditiously as possible the implementation of additional early childhood education programs, especially given the importance of early childhood education on closing the achievement gap. There appears to be an opportunity for the City to consider transfer of

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<sup>127</sup> Public Hearing, September 8, 2021, Testimony by Naomi Hodge-Muse and Doug Bynum.

<sup>128</sup> There is reference to "racial and economic equity" in Section 5.06 of the [VSA Notice](#).

<sup>129</sup> Testimony by Sandy Strayer, Superintendent for Henry County Public School, Oral Presentations, September 8, 2021.

<sup>130</sup> Ibid.

Clearview Early Childhood Education Center to the County for purposes of furthering this objective, and the Commission believes this potential scenario is worth additional exploration.<sup>131</sup> The City has stated it would welcome the opportunity to share additional school buildings to Henry County for educational purposes, and the presumption is that this would extend beyond just those school facilities included in the VSA.<sup>132</sup> Moreover, because the City and County's agreement includes provisions related to the pursuit of additional state aid to assist with this transition, the Commission encourages both parties to consider including this matter as part of their request. Finally, the Commission is not aware of any reason why Martinsville could not continue its early childhood education program as a town and therefore suggest consideration of this option, too. There is potential for the City to take ownership of early childhood education in an elective environment akin to day support or child care.

As another equity-related matter, the Commission heard from numerous members of the public regarding their concerns about the transparency of the reversion and VSA process. The City initiated studies on reversion in 2012 and 2018.<sup>133</sup> Additionally, at least seven meetings were held by the City with reversion as a discussion item - including a December 10, 2019, public hearing that was followed by City Council's unanimous vote in support of reversion.<sup>134</sup> However, since that time, the City and the rest of the world have been undergoing new and unprecedented challenges from the global COVID-19 pandemic that have upended the basic operations of local government. Indeed, the City's Notice was filed with this Commission while the Commonwealth was still subject to the Governor's declared state of emergency, which prohibited large gatherings of people and generally allowed for local governing bodies to meet electronically in furtherance of public health best practices.<sup>135</sup> An unintended consequence of this situation is that members of the public may have had greater difficulty remaining engaged with this process. This is especially true individuals with limited access to or proficiency with accessing the Internet and virtual meeting platforms and individuals who experienced elevated economic hardships and physical health and social challenges from the pandemic.<sup>136</sup> Therefore, the Commission encourages the parties to develop a plan for regular engagement with the public so that this process may unfold in the most transparent manner possible. Such engagement could include

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<sup>131</sup> Testimony by the Honorable Cathy Lawson, Mayor for the City of Martinsville, Oral Presentations, September 8, 2021. The Commission recognizes that this comment was made outside of Mayor Lawson's formal testimony and that this matter would necessitate the consent of both governing bodies before proceeding with this option.

<sup>132</sup> Letter from Stephen Piegrass, September 17, 2021, page 10.

<sup>133</sup> City Reversion Notice, page 8.

<sup>134</sup> Ibid, pages 8 - 9.

<sup>135</sup> The Honorable Ralph Northam, Governor of Virginia, Executive Order 51 (March 12, 2020) and Executive Order 53 (March 23, 2020).

<sup>136</sup> As of June 2021, the City's COVID-19 deaths per 100,000 was 629.3 while the County's was 249.2 - both were significantly higher than the rate for the Commonwealth of 137.3.

the establishment of a commission or other appointed body composed of citizens from both communities to advise the City and County on the reversion process.

The Commission would also like to highlight its concerns over voting-related matters as a third equity issue. Martinsville City Council is a five-member body and two of its current members are African American, while the six-member Henry County Board of Supervisors is entirely white. Additionally, the five-member, appointed Martinsville School Board has two African American members, while Henry County's seven-member, elected School Board only contains one African American member. The Commission received several public comments expressing concern that the reversion could reduce the ability for the African American community to elect local representatives of their choice.<sup>137</sup> Section seven of the proposed voluntary settlement agreement provides that the election districts for the Henry County Board of Supervisors and Henry County school shall be redrawn resulting in "at least one member of the Henry County Board of Supervisors and at least one member of the Henry County School Board representing a district comprised of territory located entirely within the boundaries of Martinsville." While the Commission is unaware the extent to which additional Martinsville-related districts were discussed between the City and County, we encourage the parties to consider - to the extent practicable and in accordance with state and federal voting laws - the possibility of raising this threshold so that more than one local election district could be comprised of territory located entirely within the boundaries of Martinsville, in order to address adequate representation of minority populations in the County

Finally, during the course of its proceedings, the Commission observed discord among certain factions of the City and County, including among local and ministerial officials. The City has provided evidence that certain parties, such as the City School Division, were invited to and included as part of a mediation session on the VSA, but those efforts were not sustained.<sup>138</sup> While the Commission is unable to decipher all of the reasons behind this circumstance, it seems clear that the best interests of the citizens of the City and County can be lost during this conflict. Furthermore, this hostility can spill over into the general sentiment of the public at large and runs the risk of poisoning the well in a community that, in the Commission's view, needs unity in the face of significant headwinds. While a court order will cause the desired outcome of reversion through the proposed settlement agreement, it will not promote the harmony and cooperation that is necessary for the larger community to thrive. It is understandable that emotions may run high and distrust may ensue through something as significant as reversion, especially during a global pandemic, but the Commission would like to remind all parties of their primary duties to serve and lead the citizens and not their own self-interests. Indeed, the Commission heard

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<sup>137</sup> Public Hearing, September 8, 2021. Testimony by Naomi Hodge-Muse and Doug Bynum.

<sup>138</sup> Letter from Stephen Piegrass, Counsel for the City of Martinsville, September 17, 2021, pages 11 - 12.

expressions of this sentiment during the public hearing.<sup>139</sup> Accordingly, in addition to the public engagement recommendation mentioned above, the Commission encourages the parties to engage with cultural leaders in the community to promote and cultivate a greater spirit of unity going forward.

### ***Effective Date of Reversion***

Despite reaching an agreement to resolve the interlocal dispute over the City's reversion, the parties were unable to reach agreement on the effective date of the reversion. The City would prefer an effective date of July 1, 2022, while the County would prefer to delay the effective date to July 1, 2024. Section 11.01 of the Agreement establishes that the effective date for the reversion shall be as of the date established by the Special Court.<sup>140</sup> The City also recently suggested in its closing argument that the Commission could defer on the date of the reversion to the Special Court.<sup>141</sup> While the Commission was not specifically asked to determine the effective date, much of the testimony it heard was in consideration of this question.<sup>142</sup> Therefore, the Commission considers it appropriate to consider this matter in the scope of its recommendations.

In support of its preference for a July 1, 2022, effective date the City has provided evidence that the topic of its potential reversion has been known for decades. Additionally, the City claims the County has known the City's intention to file a reversion Notice - along with attempts to negotiate a settlement of such matter - for approximately 10 months before the City filed its official Notice with the Commission.<sup>143</sup> Furthermore, the City claims it was deprived of the ability to cross-examine many of the County's witnesses in light of the timeline suggesting an effective reversion date of July 1, 2024, that was presented to the Commission by the County near the conclusion of the oral presentations.<sup>144</sup>

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<sup>139</sup> Public Hearing, September 8, 2021. Testimony by Garrett Dillard.

<sup>140</sup> VSA Agreement, Section 11.01. This is the first time a reversion case has included a provision stating the Special Court shall determine the effective date.

<sup>141</sup> Letter from Stephen Piegrass, Counsel for the City of Martinsville, September 17, 2021, pages 1 - 2.

<sup>142</sup> Testimonies of The Honorable Cathy Lawson, Mayor for the City of Martinsville; Leon Towarnicki, City Manager for Martinsville; Tim Hall, County Administrator for Henry County; Andrew Nester, Attorney for the Commonwealth for Henry County; Sandy Strayer, Superintendent for Henry County Public Schools; and Chris Phillips, Principal Architect with RMM Architects; Oral Presentations September 7-8, 2021.

<sup>143</sup> Letter from Stephen Piegrass, September 17, 2021, pages 7-8.

<sup>144</sup> Testimony by George Lyle, County Attorney for Henry County, Oral Presentations, September 8, 2021, and Closing argument by the City, pages 9 - 10. Based on the County's testimony to the Commission and its witnesses during the oral presentations, it was unclear if the County was formally suggesting a July 1, 2023, or July 1, 2024, effective date. However, the closing statements made by the County during the oral presentations on September 9, 2021, appear to suggest the County's strong preference for a July 1, 2024, effective date.

However, that does not negate the fact that both parties (and by extension, their workforces) will face many significant logistical and administrative challenges with this transition.<sup>145</sup> The Commission recognizes that this reversion is (1) the largest reversion in the history of Virginia with over 13,000 city citizens impacted and (2) likely the most complicated reversion because the two school divisions will be merged, which differs from the past three reversions where there was already any existing degree of shared or consolidated k-12 school delivery between the localities involved.<sup>146</sup> Not only does this affect various matters at the local level, but it could also have a significant effect at the state level with matters such as K-12 re-benchmarking.<sup>147</sup> The Commission agrees with the County that it would be challenging - and perhaps even reckless - to implement the reversion by July 1, 2022, about 8.5 months from the date of this report.

However, the Commission also thinks that an effective date of July 1, 2024 - nearly three years from the date of this report - may be too late and deprives Martinsville of the ability to relieve itself of ongoing fiscal stresses and benefit from town powers such as annexation, which it has agreed not to initiate or support (in the event of a citizen-initiated annexation) for a period of 10 years from the effective date.<sup>148</sup> Provisions within the agreement provide the County with space in City-owned facilities to ease this transition and could temporarily mitigate some of the capacity challenges that the County will face on a short-term basis.<sup>149</sup> Accordingly, the Commission recommends an effective date for reversion of July 1, 2023 - assuming that there are no additional significant delays with the remaining steps involved.<sup>150</sup>

### ***Additional Aid from the Commonwealth***

Finally, while not a recommendation for the parties, the Commission would like to express its support for and underscore the importance of additional funding provided by the state to assist the localities during the transition process. The evidence suggests that the overall fiscal impact of the transition will necessitate some degree of tax increases at the County level, however, the

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<sup>145</sup> Letter from Jeremy Carroll, Counsel for Henry County, September 17, 2021.

<sup>146</sup> The local population totals at the time of the CLG's past three reversion reports are as follows: (1) South Boston (6,993) and Halifax County (29,033); (2) Clifton Forge (4,300) and Alleghany County (12,500); and (3) Bedford (6,222) and Bedford County (68,676). Martinsville is generally at least twice the size of each of these former cities. From a combined total city and county population standpoint, however, the Bedford reversion was the largest population affected overall.

<sup>147</sup> The next biennial re-benchmarking by the Virginia Department of Education will be on July 1, 2024.

<sup>148</sup> VSA Notice, Section 9.01.

<sup>149</sup> Sections 3.03, 3.04, and 4.01 of the VSA contain provisions requiring Martinsville to lease - at cost - to Henry County spaces including the General District Court, constitutional offices, City Jail, Metal Annex, and Prison Farm.

<sup>150</sup> Such delays could reasonably warrant a commensurate delay in the effective date.

actual costs will not be known and could in some ways be mitigated by efficiencies and economies of scale resulting from the agreement and the reversion. The County expects to incur additional one-time capital costs to accommodate the space needs for additional service demands imposed upon it by Martinsville's reversion. The agreement contains provisions to mitigate some of this impact in the short-run, but the County has suggested that this is unsustainable and undesirable.<sup>151</sup> Accordingly, one area in which state aid could be most helpful during the reversion could be direct aid for such needs.

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<sup>151</sup> Letter from Jeremy Carroll, Counsel for Henry County, September 17, 2021, page 17.

## CONCLUDING COMMENT

The Commission on Local Government acknowledges the considerable effort devoted by officials of the City of Martinsville and Henry County to negotiate the agreement before us. The agreement reflects a notable commitment by the leadership of both jurisdictions to address in a collaborative fashion the concerns of their localities and the needs of their residents. We commend the officials of the two jurisdictions for their public leadership, for the interlocal agreement which they have negotiated, and for putting the needs of their citizens ahead of personal and political gain.

Respectfully submitted,

/s/  
Stephanie D. Davis, PhD, Chair

/s/  
Diane M. Linderman, PE, Vice Chair

/s/  
R. Michael Amyx

/s/  
Rosemary M. Mahan

/s/  
Ceasor T. Johnson, D. Min.

**VOLUNTARY SETTLEMENT AGREEMENT  
BETWEEN THE CITY OF MARTINSVILLE AND THE COUNTY OF HENRY**

This Voluntary Settlement Agreement (the “Agreement”) is made and entered this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the CITY OF MARTINSVILLE, a municipal corporation of the Commonwealth of Virginia (“Martinsville”), and the COUNTY OF HENRY, a political subdivision of the Commonwealth of Virginia (“Henry County”) (together, the “Parties”).

**RECITALS**

WHEREAS, on December 10, 2019, the City Council of Martinsville voted in favor of Martinsville’s reversion from an independent city to a town located within and constituting part of Henry County, following discussion and study regarding the feasibility of the same;

WHEREAS, on September 18, 2020, Martinsville, by counsel and pursuant to § 15.2-2907(A) of the Virginia Code, filed with the Commission on Local Government a notice of its intent to petition for an order granting it town status, seeking to establish a traditional town-county relationship with Henry County, including the same rights, powers, and responsibilities as are granted to existing towns consistent with Virginia law;

WHEREAS, on November 30, 2020, Henry County, by counsel, filed its response to Martinsville’s notice of intent to petition for an order granting it town status;

WHEREAS, the Parties entered into a Memorandum of Understanding dated April 29, 2021, in contemplation of a comprehensive settlement agreement providing for Martinsville’s reversion from city to town status and addressing the allocation of governmental services following that change in governmental structure, the transfer of certain properties, the sharing of certain revenues, a temporary moratorium of annexation rights, and other matters;

WHEREAS, on May 26, 2021, at a joint public meeting, the Parties’ respective governing bodies approved the Memorandum of Understanding, and this Agreement has been prepared in accordance with Section 17 of the Memorandum of Understanding;

WHEREAS, the Parties have reached this Agreement, pursuant to Title 15.2, Chapter 34 (§ 15.2-3400, et seq.) and Chapter 41 (§ 15.2-4100, et seq.) of the Virginia Code and consistent with the terms of the Memorandum of Understanding;

WHEREAS, the reversion of Martinsville from an independent city to a town pursuant to the terms of this Agreement will establish a traditional town/county relationship between Martinsville and Henry County, with the same rights, powers, and responsibilities as other towns and counties, except as provided by special law or modified in this Agreement; and

WHEREAS, the Parties have concluded that Martinsville’s reversion from an independent city to a town located within and constituting part of Henry County in accordance with the terms of this Agreement meets the requirements of Virginia Code § 15.2-4106.



## **AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing Recitals, and in further consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

### **Section 1:** **DEFINITIONS**

As used in this Agreement, unless the context indicates otherwise, the words listed below are defined as follows:

**1.01. “Martinsville”** means the present City and, upon the effective date of the Special Court’s approval, the reverted Town of Martinsville, Virginia. Unless the context indicates otherwise, a reference herein to Martinsville includes a council, body, authority, board, bureau, commission, district, agency, court, officer, constitutional officer, deputy, employee or agent (not including outside counsel) of any of the foregoing, or other entity or person authorized to act on behalf of Martinsville regarding the referenced matter.

**1.02. “Henry County”** means the County of Henry, Virginia. Unless the context indicates otherwise, a reference herein to Henry County includes a body, board, bureau, commission, district, agency, officer, constitutional officer, deputy, employee or agent (not including outside counsel) of any of the foregoing, or other entity or person authorized to act on behalf of Henry County regarding the referenced matter.

**1.03. “Parties”** mean Martinsville and Henry County.

**1.04. “Actively pursuing redevelopment”** means any act that it is intended to, and that is reasonably expected to, advance Martinsville’s efforts to redevelop the subject building or property, which act shall be in relation to: (i) a redevelopment agreement, (ii) due diligence period, (iii) executed option to purchase, (iv) negotiation with a potential redeveloper, (v) issuance of a request for proposal for redevelopment, or (vi) other reasonable effort relating to redevelopment.

**1.05. “Agreement”** means this voluntary settlement agreement between the Parties reached pursuant to Title 15.2, Chapter 34 (§ 15.2-3400, et seq.) of the Virginia Code.

**1.06. “Albert Harris Elementary School”** means all the real property associated with the Albert Harris Elementary School located at 710 Smith Street, Martinsville, Virginia 24112, City Property ID # 050027200, Tax Map # 20 (01)00 / 01A\*, consisting of three parcels: Tract 1A, Lot 09, & Lot 69) and totaling approximately 12.424 acres.

**1.07.** When referring to the use by Henry County of space in a building referenced herein, “**at cost**” means at the pro rata share, determined by the respective square footage that Henry County occupies in the building to the exclusion of all others compared to the total square footage of the building, of all operating expenses, including utilities, insurance, maintenance, and capital expenditures, but excluding any such operating expenses paid directly by Henry County. As applied in the foregoing calculation, any expense, including any capital expense, associated with the maintenance, repair, and/or improvement of any space in the building shall be discounted based

on the expected time of Henry County's continued occupancy of such space and a professionally-recognized lifespan of such maintenance, repair, and/or improvement. For example, if Henry County occupies 10 percent of the building's total square footage and Martinsville installs a capital improvement with a 30-year lifespan, then Henry County would pay 10 percent of 1/30<sup>th</sup> of the cost of the capital improvement for each year in which it continued to occupy the same space in the building. When referring to the use by Martinsville of work-release inmates as referenced herein, **"at cost"** means all expenses associated with Martinsville's use of inmates from the Henry County sheriff's inmate work-release program, including any processing expenses, security expenses, transportation expenses, personnel expenses, wages, per diems, meal expenses, and insurance expenses.

**1.08. "Authorized Representatives"** means: (i) prior to the effective date of reversion, for Martinsville, the Mayor and City Manager; (ii) following the effective date of reversion, for Martinsville, the Mayor and Town Manager; and (iii) for Henry County, the Chair of the Board of County Supervisors and the County Administrator.

**1.09. "Blue Ridge Airport Authority"** means the authority established by Chapter 25 of the 1964 Acts of Assembly, as amended by later Acts of Assembly.

**1.10. "Blue Ridge Regional Library"** means the Blue Ridge Regional Library, which Martinsville, Henry County, and Patrick County created pursuant to a May 29, 1975 agreement, amended June 26, 2001, consistent with § 42.1-37 of the Virginia Code.

**1.11. "Bryant Property"** means the approximately 1,206-acre site owned by the Henry County Industrial Development Authority and located in Henry County adjacent to the Patriot Centre at Beaver Creek Industrial Park and near Barrows Mill Road, Henry Co Acct # 012230004, Tax Map # 30.5(000)000/041.

**1.12. "City Jail"** means the real property associated with the Martinsville City Jail located at 55 West Church Street, Martinsville, Virginia 24114, which heretofore has been used by the Martinsville sheriff for the provision of jail and related services in Martinsville, specifically the masonry jail constructed in 1968 and incorporated as an integral wing of the Municipal Building.

**1.13. "Clearview Early Childhood Center"** means the real property associated with the former Clearview Early Childhood Center located at 800 Ainsley Street, Martinsville, Virginia 24112 but excluding the Clearview Fields and Clearview Parkland. For clarity, the Clearview Early Childhood Center consists of the real property located to the west of Ainsley Street and north of Clearview School Road.

**1.14. "Clearview Fields and Parkland"** means the real property located across Ainsley Street from Clearview Early Childhood Center, City Property ID # 050026800, & Tax Map # 06 (06)00/04 05 (Property ID # shared with school) consisting exclusively of athletic fields and parkland. For clarity, the Clearview Fields and Parkland consists of the real property located to the east of Ainsley Street and south of Clearview School Road.

**1.15. "Commission"** means the Commission on Local Government established under Title 15.2, Chapter 29 (§ 15.2-2900, et seq.) of the Virginia Code.

**1.16. “Commonwealth Crossing Revenue Sharing Agreement”** means the revenue sharing agreement between Martinsville, Henry County, and the Henry County Industrial Development Authority dated September 25, 2007. For clarity, prior to the effective date of this Agreement, the Commonwealth Crossing Revenue Sharing Agreement applies to the Commonwealth Crossing Business Park (identified in Schedule A of the Commonwealth Crossing Revenue Sharing Agreement) and the Bryant Property (identified in Schedule B of the Commonwealth Crossing Revenue Sharing Agreement).

**1.17. “Constitutional Officer”** means an officer provided for pursuant to Article VII, § 4 of the Virginia Constitution, to wit: a treasurer, a sheriff, an attorney for the Commonwealth, a clerk (who shall be the clerk of the court in the office of which deeds are recorded), and a commissioner of revenue. Unless the context indicates otherwise, a reference herein to a Constitutional Officer includes the officer and the deputies and employees thereof.

**1.18. “Druid Hills Elementary School”** means all the real property associated with the former Druid Hills Elementary School located at 746 Indian Trail, Martinsville, Virginia 24112, City Property ID # 050028600, Tax Map # 54 (06)00 /B C D.

**1.19. “Harvest Foundation”** means The Harvest Foundation of the Piedmont, a Virginia nonstock corporation recognized as a charitable organization under 26 U.S.C. § 501(c)(3).

**1.20. “Henry County Industrial Development Authority”** means the industrial development authority established by Chapter 2, Article III (§ 2-300, et seq.) of the Henry County Code.

**1.21. “Henry County Public School Division”** means the public school division for Henry County. Unless the context indicates otherwise, a reference herein to the Henry County Public School Division includes the Henry County School Board, division superintendent, or other entity or person authorized to act on behalf of the Henry County Public School Division regarding the referenced matter.

**1.22. “Henry-Martinsville Health Department”** means the joint health department presently serving Henry County and Martinsville.

**1.23. “Henry-Martinsville Department of Social Services”** means the joint department of social services presently serving Henry County and Martinsville.

**1.24. “Includes”** means includes, but not limited to, and “**including**” means including, but not limited to.

**1.25. “Martinsville-Henry County 911 Center”** means the joint dispatch center that Martinsville and Henry County created pursuant to a June 1988 agreement for the purpose of providing emergency dispatch services for Martinsville and Henry County.

**1.26. “Martinsville-Henry County EDC”** means the Martinsville-Henry County Economic Development Corporation, a Virginia nonstock corporation.

**1.27. “Martinsville High School”** means all the real property associated with the Martinsville High School located at 351 Commonwealth Boulevard East, Martinsville, Virginia 24112, City Property ID # 050027000, Tax Map # 24 (02)00/01A, totaling approximately 41.850 acres.

**1.28. “Martinsville Industrial Park”** means the following parcels located on, adjacent to, or near Industrial Park Drive in Henry County:

4053 Greensboro Road; Tax Map # 52.5(000)000/029B;  
 0 Industrial Park Drive; Tax Map # 52.5(000)000/029P;  
 355 Industrial Park Drive; Tax Map # 52.5(000)000/029L;  
 445 Industrial Park Drive; Tax Map # 52.5(000)000/029J;  
 499 Industrial Park Drive; Tax Map # 52.5(000)000/029Z;  
 555 Industrial Park Drive; Tax Map # 52.5(000)000/029C;  
 775 Industrial Park Drive; Tax Map # 52.5(000)000/029S;  
 790 Industrial Park Drive; Tax Map # 52.5(000)000/027D;  
 588 Industrial Park Drive; Tax Map # 52.5(000)000/029E;  
 424 Industrial Park Drive; Tax Map # 52.5(000)000/029F;  
 420 Industrial Park Drive; Tax Map # 52.5(000)000/029R;  
 342 Industrial Park Drive; Tax Map # 52.5(000)000/029M;  
 226 Industrial Park Drive; Tax Map # 52.5(000)000/029A;  
 485 Industrial Park Drive; Tax Map # 52.5(000)000/029;  
 Unassigned; Tax Map # 52.5(000)000/028;  
 Unassigned; Tax Map # 52.5(000)000/028A;  
 440 Fontaine Drive; Tax Map # 52.5(000)000/031A;  
 220 Fontaine Drive; Tax Map # 52.5(000)000/029D;  
 250 Fontaine Drive; Tax Map # 52.5(000)000/030;  
 0 Textile Road; Tax Map # 52.5(000)000/028C;  
 Unassigned; Tax Map # 52.5(000)000/029K;  
 108 Textile Drive; Tax Map # 52.5(037)000/002X;  
 0 Clover Road; Tax Map # 52.8(000)000/027B; and  
 0 Clover Road; Tax Map # 52.8(000)000/027.

**1.29. “Martinsville Middle School”** means all the real property associated with the Martinsville Middle School located at 201 Brown Street, Martinsville, Virginia 24112, City Property ID ## 050027400 & 050027600, Tax Map ## 33 (03)M/16R & 33 (03)L/02 06C (Brown/Market Streets Lower Parking lot), totaling approximately 7.66 acres; provided, however, the Martinsville Middle School shall not include either (i) the building defined herein as the Old Gymnasium or (ii) the right to use the unopened easement that crosses the parking lot of the BB&T building located on a parcel on East Church Street to the north of the Martinsville Middle School property. The Martinsville School Board shall quitclaim or otherwise convey said easement to the City of Martinsville or its assignee prior to the effective date of reversion.

**1.30. “Martinsville Public School Division”** means the public school division for Martinsville. Unless the context indicates otherwise, a reference herein to the Martinsville Public School Division includes the Martinsville School Board, division superintendent, or other entity or person authorized to act on behalf of the Martinsville Public School Division regarding the referenced matter.

**1.31. “Memorandum of Understanding”** means the Parties’ memorandum of understanding dated April 29, 2021, executed in anticipation of this Agreement.

**1.32. “Metal Annex”** means the real property associated with the Martinsville City Jail Annex located at 55 West Church Street, Martinsville, Virginia, 24112, which heretofore has been used by the Martinsville sheriff for the provision of jail and related services in Martinsville, specifically the corrugated steel structure standing immediately to the rear of the Municipal Building but independent of it, and surrounded by a chain-link fence enclosure topped with razor wire (the Metal Annex does not have an independent City Property ID or Tax Map number).

**1.33. “MINet”** means MINet Solutions, a Martinsville service that provides voice and data services to Martinsville’s governmental agencies and local businesses.

**1.34. “Municipal Building”** means the real property located at 55 West Church Street, Martinsville, Virginia 24114.

**1.35. “Patrick Henry Elementary School”** means the real property associated with the Patrick Henry Elementary School located at 1810 East Church Street, Martinsville, VA 24112, City Property ID # 050028200, Tax Map # 45 (03)00/01C.

**1.36. “Patriot Centre at Beaver Creek Industrial Park”** means the approximately 1,054-acre industrial park owned by the Henry County Industrial Development Authority and located in Henry County around Beaver Creek Drive.

**1.37. “Patriot Centre Revenue Sharing Agreement”** means the revenue sharing agreements between Martinsville, Henry County, and the Henry County Industrial Development Authority dated April 30, 2002, and August 31, 2009.

**1.38. “Old Gymnasium”** means the real property associated with the stand-alone building commonly referred to as the “Old Gymnasium” at Martinsville Middle School, located at the intersection of East Market Street, Brown Street, and Cleveland Avenue, and consisting of a brick temple style structure with a columned portico and an associated gravel parking area located to the east of the building, immediately adjacent to and abutting Brown Street and East Market Street, City Property ID # 050027600, Tax Map # 33 (03)L/02 06C (such tax map number is shared with the lower parking lot for the middle school, which is to the west of the Old Gymnasium and is not part of the Old Gymnasium property).

**1.39. “Personal property”** means any movable or intangible thing that is subject to ownership and not classified as real property. For clarity, personal property includes all equipment, computers, software applications, vehicles, weapons, personal protective equipment, police equipment, courthouse security equipment (not including cameras affixed to real property), furnishings, books, papers, records, files, data, electronic files, funds, grant funds associated with services being assumed by Henry County upon the effective date of reversion, licenses, and warranties, among other tangible and intangible items of personal property. A reference herein to the personal property of a public body, authority, board, bureau, commission, district, agency, court, officer, constitutional officer, deputy, employee of any of the foregoing, or other public entity or public person means the personal property thereof in a public/official capacity rather than private/individual capacity.

**1.40. “Prison Farm”** means all the real property associated with the Martinsville Prison Farm located at 300 Clearview Drive, Martinsville, Virginia, 24112, City Property ID # 050015800, Tax Map # 13 (05)00/05, which heretofore has been used by the Martinsville sheriff for the provision of jail and related services in Martinsville.

**1.41. “Real property”** means land and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land, and all rights and appurtenances thereunto pertaining. For clarity, real property includes all fixtures.

**1.42. “Section”** refers to a part of this Agreement, unless the context indicates that the reference is to another writing such as a provision of law or a different written instrument.

**1.43. “Special Court”** means the special, three-judge Court appointed by the Supreme Court of Virginia pursuant to Title 15.2, Chapter 30 (§ 15.2-3000, et seq.) of the Virginia Code.

## **Section 2:** **TRANSITION TO TOWN STATUS**

**2.01. Transition to Town Status.** Upon the effective date of reversion established by the Special Court as referenced in Section 11.01, Martinsville shall make a transition from an independent city to a town located within and constituting part of Henry County, in accordance with § 15.2-4115 of the Virginia Code and other applicable law. As a town, Martinsville shall possess all powers and have such authority as granted by general law to other towns in the Commonwealth of Virginia and such other powers and authority as granted by charter or other special act of the General Assembly, except as modified in this Agreement.

**2.02. Town Charter.** From the effective date of reversion until the General Assembly grants Martinsville a new charter, Martinsville’s present city charter shall be conformed to a town charter, in accordance with § 15.2-4112 of the Virginia Code. Martinsville’s conformed town charter shall retain the same grants of authority contained in its present city charter, except as modified in this Agreement. In accordance with § 15.2-4113 of the Virginia Code, after the effective date of reversion, Martinsville shall not return to its previous independent city status, notwithstanding any contrary provision of law, general or special.

**2.03. Town Ordinances.** In accordance with § 15.2-4115 of the Virginia Code, upon the effective date of reversion, Martinsville’s city ordinances shall become the ordinances of the town, insofar as they are applicable, and consistent with law, unless and until they are repealed.

**2.04. Town Council, Officers, Employees, and Agents.** In accordance with § 15.2-4115 of the Virginia Code, upon the effective date of reversion,

**2.04.01.** Martinsville’s city mayor and the members of the city council shall continue to serve respectively as Martinsville’s town mayor and the members of the town council, until their successors are elected or appointed consistent with applicable law and Section 7.03; and

**2.04.02.** all city officers, employees, and agents of Martinsville shall continue to serve respectively as town officers, employees, and agents of

Martinsville, unless or until terminated consistent with applicable law including by dissolution of office, employment, or agency such as referenced in Sections 3, 4, 5, and 6.

### **Section 3:** **CONSTITUTIONAL OFFICES**

**3.01. Transition of Constitutional Offices Serving Martinsville.** Upon the effective date of reversion, the terms of office and the rights, powers, duties, and compensation of Martinsville's Constitutional Officers shall terminate in accordance with § 15.2-4115 of the Virginia Code, and Martinsville will be served by Henry County's Constitutional Officers from that date forward.

**3.02. Cooperation in Transition of Constitutional Offices.** Upon the Special Court's affirmation of this Agreement, the respective Constitutional Officers of Martinsville and Henry County shall cooperate in regard to the transition of services to Henry County's Constitutional Officers. Constitutional Officers from Martinsville shall provide Constitutional Officers from Henry County with access to records, including records deemed confidential, and other requested information related to the transition of services to Henry County's Constitutional Officers. The Parties' respective sheriffs are fully authorized to negotiate any matters related to the transition of court security, service of process, jail and related services, including matters regarding Martinsville's continued use of work-release inmates, at cost, and the transfer of personal property from Martinsville's sheriff to Henry County's sheriff; however, the Parties' sheriffs shall not be authorized to amend, modify, or otherwise depart from the provisions of Section 3.04 unless approved by authorized representatives of Martinsville and Henry County. If not completed before the effective date of reversion, title to all personal property of the Martinsville sheriff shall transfer to the Henry County sheriff as of that date, as provided in Section 3.06.

**3.03. Office Space Currently Occupied by Martinsville's Constitutional Officers.** On and after the effective date of reversion, Martinsville shall retain title to the Municipal Building; however, Martinsville shall offer to lease, at cost, to Henry County the exclusive occupancy and use of office space heretofore occupied by Martinsville's attorney for the Commonwealth in the Municipal Building. Henry County shall be responsible for providing security for such office space leased from Martinsville in the manner it deems appropriate. The term of Henry County's lease for such office space shall be five years, subject to automatic renewal for yearly terms unless terminated upon ninety (90) days' written notice by either Party. Any such lease shall immediately terminate if Henry County is not using the leased space for judicial, prosecutorial and related services.

**3.04. Martinsville's City Jail, Metal Annex, and Prison Farm.** On and after the effective date of reversion, Martinsville shall retain title to the City Jail, Metal Annex, and Prison Farm; however, Martinsville shall offer to lease, at cost, to Henry County the exclusive occupancy and use of the City Jail, Metal Annex, and Prison Farm. The term of Henry County's lease or leases for any such property or properties shall be five years, subject to automatic renewal for yearly terms unless terminated upon ninety (90) days' written notice by either Party. Any such lease shall immediately terminate if Henry County is not using the leased space for jail and related services.

**3.05. Personal Property of Martinsville's Treasurer and Commissioner of Revenue.**

On and after the effective date of reversion, Martinsville shall retain title to the personal property of Martinsville's treasurer and commissioner of revenue, except that Martinsville shall transfer to Henry County title to the personal property of the assessor employed by Martinsville's commissioner of revenue.

**3.06. Personal Property of Martinsville's Other Constitutional Officers.** No later than the effective date of reversion, Martinsville shall transfer to Henry County title to all personal property of Martinsville's Constitutional Officers except as provided in Section 3.05 and Section 3.07.

**3.07. Records of Constitutional Officers.** Notwithstanding the provisions of Sections 3.05 and 3.06 of this Agreement, Martinsville's Constitutional Officers shall,

- 3.07.01.** at least six months before the effective date of reversion, make available to Henry County's Constitutional Officers for review and copying all records maintained by Martinsville's Constitutional Officers; and
- 3.07.02.** no later than the effective date of reversion, provide to Henry County's Constitutional Officers all records maintained by Martinsville's Constitutional Officers. If, in the case of the Martinsville treasurer or commissioner of revenue, Martinsville also needs copies of such records after the effective date of reversion, then Martinsville's Constitutional Officers shall provide Henry County's Constitutional Officers with an exact duplicate copy of such records.

The Parties shall collaborate to ensure that the records are delivered to Henry County's Constitutional Officers in their preferred format.

#### **Section 4: COURTS**

**4.01. Transition of Courts Serving Martinsville.** Upon the effective date of reversion, all Martinsville court functions shall cease. On and after the effective date of reversion, Martinsville shall retain title to the real property currently occupied by Martinsville's circuit court, general district court, and juvenile and domestic relations district court and the respective clerks thereof, except that Martinsville shall offer to lease, at cost, to Henry County the exclusive occupancy and use of the space currently occupied by Martinsville's general district court and the clerk thereof. Henry County shall be responsible for providing security for such space leased from Martinsville in the manner it deems appropriate. The term of Henry County's lease for such space shall be five years, subject to automatic renewal for yearly terms unless terminated upon ninety (90) days' written notice by either Party. Any such lease shall immediately terminate if Henry County is not using the leased space for court, clerk, and related services.

**4.02. Personal Property of Courts Serving Martinsville.** No later than the effective date of reversion, Martinsville shall transfer to Henry County title to all personal property of Martinsville's circuit court, general district court, and juvenile and domestic relations district court and the respective clerks thereof. Without limiting the generality of the foregoing, Martinsville's



circuit court, general district court, and juvenile and domestic relations district court and the respective clerks thereof shall, no later than the effective date of reversion unless an earlier date is ordered by the Chief Judge of the Circuit or District for the efficient administration of justice, deliver to Henry County's circuit court, general district court, and juvenile and domestic relations district court and the respective clerks thereof all books, papers, records, case files, evidence, data, electronic files, law library materials, and other information maintained by Martinsville's circuit court, general district court, and juvenile and domestic relations district court and the respective clerks thereof. The Parties shall collaborate to ensure that the records are delivered to Henry County's courts and clerks in their preferred format and in a timely manner to ensure there is no interruption in court services.

**4.03. Pending Proceedings.** In accordance with § 15.2-4119 of the Virginia Code, upon the effective date of reversion, unless an earlier date is ordered by the Chief Judge of the Circuit or District for the efficient administration of justice, all criminal and civil matters pending in Martinsville's circuit court, general district court, and juvenile and domestic relations district court shall be removed to the Henry County circuit court, general district court, and juvenile and domestic relations district court, respectively. If, on the effective date of reversion, there are any pending actions or proceedings by or against the City of Martinsville, or if an action or proceeding is instituted which arises out of a cause of action which arose prior to the time the City of Martinsville reverted to a town, and which but for the reversion would have been by or against the City of Martinsville, then the Town of Martinsville shall be substituted in place of the City of Martinsville, and the action or proceeding may be perfected to judgment, in accordance with § 15.2-4118 of the Virginia Code.

## **Section 5:** **PUBLIC EDUCATION**

**5.01. Transition in Public School Division Serving Martinsville.** Upon the effective date of reversion, the Martinsville Public School Division shall cease to exist, and the residents of Martinsville shall be served by the Henry County Public School Division from that date forward. Henry County shall be entitled to receive all state and federal aid attributable to education within Martinsville after the effective date of reversion.

**5.02. Cooperation in Transition of School Administration.** Upon the execution of this Agreement, the superintendents and administrators of the Martinsville Public School Division and Henry County Public School Division shall cooperate in regard to the transition of public education services to the Henry County Public School Division. Superintendents and administrators from Martinsville shall provide superintendents and administrators from Henry County with access to school property and records, including records deemed confidential, and other requested information related to the transition of public education services to the Henry County Public School Division.

**5.03. Real Property Transferred to Martinsville.** Upon the effective date of reversion, the Martinsville Public School Division shall transfer to Martinsville title to Druid Hills Elementary School, Patrick Henry Elementary School, Clearview Early Childhood Center, the Clearview Fields and Parkland, and the Old Gymnasium. Any costs associated with surveys, boundary adjustments, or subdivisions of parcels related to Clearview Early Childhood Center, the

Clearview Fields and Parkland, and the Old Gymnasium shall be borne by Martinsville. Following the respective transfers of title to Martinsville:

- 5.03.01.** if Martinsville is not actively pursuing redevelopment of Druid Hills Elementary School or using it for veterans' services or for a taxable purpose, then title to Druid Hills Elementary School shall transfer to Henry County;
- 5.03.02.** if Martinsville is not actively pursuing redevelopment of Patrick Henry Elementary School or using it for a taxable purpose, then title to Patrick Henry Elementary School shall transfer to Henry County;
- 5.03.03.** if Martinsville is not actively pursuing redevelopment of Clearview Early Childhood Center or using it for a taxable purpose, then title to Clearview Early Childhood Center shall transfer to Henry County; and/or
- 5.03.04.** if Martinsville is not actively pursuing redevelopment of the Clearview Fields and Parkland or using that property for athletic fields, a park, or a taxable purpose, then title to the Clearview Fields and Parkland shall transfer to Henry County.

**5.04. Real Property Transferred to Henry County.** Upon the effective date of reversion, the Martinsville Public School Division shall transfer to the Henry County School Board title to Albert Harris Elementary School, Martinsville Middle School, and Martinsville High School. Following the transfer of title to the Henry County School Board, the Henry County Public School Division shall permit the auditorium in Martinsville High School to be used for regional civic purposes, including use by Martinsville, Henry County, or others for performing arts, concerts, special events, or other similar gatherings provided the Henry County Public School Division shall be responsible for approving, coordinating, and scheduling all such proposed uses.

**5.05. Martinsville Public School Division's Personal Property.** No later than the effective date of reversion, the Martinsville Public School Division shall transfer to the Henry County School Board title to the personal property of the Martinsville Public School Division. Without limiting the generality of the foregoing, the Martinsville Public School Division shall,

- 5.05.01.** at least six months before the effective date of reversion, make available to the Henry County Public School Division, for review and copying, and
- 5.05.02.** no later than the effective date of reversion, deliver to the Henry County Public School Division,

all books, papers, records, files, data, electronic files, library materials, and other information maintained by the Martinsville Public School Division. The Parties shall collaborate to ensure that the records are delivered to the Henry County Public School Division in its preferred format.

**5.06. School Operations Study.** As soon as practicable, and no later than the execution of this Agreement, the Parties or the Henry County Public School Division will apply to the Harvest Foundation for funding of a comprehensive study of the Henry County Public School Division following the dissolution of the Martinsville Public School Division. Such study shall consider subjects including educational quality, the efficient use of facilities, racial and economic equity, costs, the consolidation of administrative functions, academic and pedagogical concerns, and student achievement. The Virginia Board of Education and the Virginia Department of Education will be invited to participate in such study. Such study shall include at least two public meetings for purposes of receiving citizen input. Should the Harvest Foundation deny funding for such study, the Parties shall take appropriate actions to request appropriations from the General Assembly to fund such study. The superintendents and administrators of the Martinsville Public School Division and Henry County Public School Division shall cooperate in the preparation of the study. Such study is advisory in nature only, and it shall not be binding upon the Henry County Public School Division. Nothing in this Section shall limit the authority of the Henry County School Board over the operation of the Henry County Public School Division.

## **Section 6:** **OTHER PUBLIC SERVICES**

**6.01. Health and Social Services.** Upon the effective date of reversion, Martinsville shall no longer be responsible for the governance or funding of the Henry-Martinsville Health Department or the Henry-Martinsville Department of Social Services. Martinsville shall convey all its interests in the real property presently used by the Henry-Martinsville Health Department (located at 295 Commonwealth Boulevard) and the Henry-Martinsville Department of Social Services (located at 20 Progress Drive) and all its interests in the personal property of the Henry-Martinsville Health Department and the Henry-Martinsville Department of Social Services to Henry County upon the effective date of reversion. The October 1, 2011, Facility Costs Agreement among Martinsville, Henry County, and the Henry-Martinsville Department of Social Services shall be dissolved as of the effective date of reversion.

**6.02. Continued Participation in Certain Services.** On and after the effective date of reversion, Martinsville shall continue to participate in the governance and funding of the Blue Ridge Airport Authority, Blue Ridge Regional Library, Martinsville-Henry County 911 Center, Patrick & Henry Community College, Chamber's Partnership for Economic Growth, and Martinsville-Henry County EDC consistent with the respective governing documents' terms and funding formulas as are applicable to the same. The June 1988 agreement between Martinsville and Henry County concerning the 911-dispatch center and the May 29, 1975 agreement, as amended June 26, 2001, between Martinsville, Henry County, and Patrick County regarding the Blue Ridge Regional Library shall remain in effect following reversion.

**6.03. Allocation of Other Public Services.** On and after the effective date of reversion, unless otherwise provided by this Agreement,

**6.03.01.** Martinsville residents shall have use of all services provided by Henry County to its residents on the same basis as other Henry County residents, and all services provided by Henry County shall be made available without discriminating against residents of Martinsville

because they reside in Martinsville, consistent with applicable laws and ordinances; and

- 6.03.02.** Martinsville shall provide or otherwise make available to its residents all urban services traditionally provided by Virginia towns, to the extent desired by Martinsville's citizens and consistent with applicable laws and ordinances. Martinsville's cessation of any of these services shall not alone obligate Henry County to continue, maintain, or otherwise provide such services.

**6.04. Certain Town Service Levels.** On and after the effective date of reversion, Martinsville shall provide or otherwise make available to its residents services commonly provided to urban areas consisting of utility services (water, sewer, electricity), public safety services (fire, police, EMS), animal control, public works, street and sidewalk maintenance, solid waste collection, erosion and sediment control program, stormwater management program, building code inspections and enforcement, and MINet services, at levels no less than those that were provided for in its fiscal year 2021 budget. The November 24, 2020, agreement between Martinsville and Henry County concerning solid waste disposal shall remain in effect following reversion.

## **Section 7: ELECTIONS**

**7.01. Election Districts.** The Henry County Board of Supervisors consists of six members elected from separate districts and the Henry County School Board consists of six members elected from separate districts and one member elected at large. The Parties acknowledge that the existing elections districts for the Henry County Board of Supervisors and the Henry County School Board must be redrawn to encompass Martinsville. The Henry County Board of Supervisors shall change the number and/or boundaries of such districts as it deems appropriate in its sole discretion as a consequence of Martinsville's reversion to a town located within and constituting part of Henry County; provided that such changes shall be consistent with the laws of Virginia and of the United States and further provided such changes will result in at least one member of the Henry County Board of Supervisors and at least one member of the Henry County School Board representing a district comprised of territory located entirely within the boundaries of Martinsville. Thereafter, the Henry County Board of Supervisors shall retain at least one seat on each body from entirely within the boundaries of Martinsville, provided that retaining such seats during any subsequent reapportionment or redistricting is consistent with the laws of Virginia and of the United States in light of population and demographic changes.

**7.02. County Redistricting Plan and Elections.** Following the Special Court's affirmation of this Agreement, Henry County shall adopt a redistricting plan consistent with Section 7.01 for districts for the Henry County Board of Supervisors and districts for the Henry County School Board. Such redistricting plan shall be adopted no later than the effective date of reversion. Thereafter, an election shall be held to select members of the Henry County Board of Supervisors and the Henry County School Board from the districts contained in such redistricting plan after the plan has received any approvals required under the laws of Virginia and of the United States. Any vacancies on the foregoing bodies following the adoption and any required approvals

of the redistricting plan may be filled in accordance with Virginia law. Nothing herein shall be construed as prohibiting the registered voters of Henry County from reverting to an appointed school board in the future under § 22.1-57.4 of the Virginia Code or other applicable law; provided, however, that at least one resident of Martinsville shall be appointed to the school board.

**7.03. Town Elections.** Upon the Special Court's affirmation of this Agreement, Martinsville shall undertake all actions necessary for the election of the town council members and any elected town officers of the new Town of Martinsville, consistent with applicable law.

## **Section 8: REVENUE SHARING**

**8.01. Commonwealth Crossing Revenue Sharing Agreement.** Upon the effective date of reversion, the Bryant Property shall be removed from the land designated as "Revenue Shared" under the Commonwealth Crossing Revenue Sharing Agreement.

**8.02. Patriot Centre Revenue Sharing Agreement.** Upon the effective date of reversion,

**8.02.01.** the Martinsville Industrial Park shall be added to the land designated as "Revenue Shared" under the Patriot Centre Revenue Sharing Agreement; and

**8.02.02.** the Patriot Centre Revenue Sharing Agreement shall be modified regarding the debt Martinsville owes to Henry County in order to allow Martinsville to realize the revenue stream assigned to Martinsville thereunder.

Upon the completion of Martinsville's ten-year moratorium of annexation rights under Section 9.01, the revenues from the Martinsville Industrial Park and the Patriot Centre at Beaver Creek Industrial Park that are to be shared as calculated under the Patriot Centre Revenue Sharing Agreement, shall be pooled and shared between Martinsville and Henry County at a ratio of two-thirds for Henry County and one-third for Martinsville.

## **Section 9: ANNEXATION**

**9.01. Limited Waiver.** For a period of ten years following the effective date of reversion, Martinsville shall not initiate any proceeding for the annexation of territory in Henry County pursuant to Title 15.2, Chapter 32 (§ 15.2-3200, et seq.) of the Virginia Code, or any other applicable law, and Martinsville shall not endorse or support any voter-initiated proceeding for the annexation of territory in Henry County pursuant to Title 15.2, Chapter 32 (§ 15.2-3200, et seq.) of the Virginia Code, or any other applicable law. If Martinsville endorses or supports any voter-initiated proceeding for the annexation of territory in Henry County in violation of the foregoing sentence, then Henry County may terminate the limited waiver of annexation rights under section 9.03 of this Agreement.

**9.02. Early Termination.** Martinsville's limited waiver of annexation rights under Section 9.01 shall immediately terminate if, during the ten-year period thereunder:

**9.02.01.** the Henry County Public Service Authority ceases to be a wastewater/sewer customer of Martinsville; or

**9.02.02.** Henry County in any way initiates, endorses, or supports the incorporation of any presently-unincorporated territory in Henry County into a town.

**9.03. Effect on Revenue Sharing.** If Martinsville's limited waiver of annexation rights under Section 9.01 lasts for the completion of the ten-year period thereunder, then the provisions of Section 8 shall remain in effect in perpetuity. If Martinsville's limited waiver of annexation rights under Section 9.01 terminates before the completion of the ten-year period thereunder, then the provisions of Section 8 shall be voided upon the termination of such limited waiver of annexation rights and Martinsville shall remain liable for the debt that otherwise would have been forgiven under Section 8.02.02 in proportion to the number of years remaining in such ten-year period at termination.

#### **Section 10:**

#### **COMMISSION REVIEW AND SPECIAL COURT AFFIRMATION**

**10.01. Commission Review.** The Parties agree to take such actions as are necessary and required for the Commission's review of this Agreement consistent with Title 15.2, Chapter 34 (§ 15.2-3400, et seq.) and Chapter 29 (§ 15.2-2900, et seq.) of the Virginia Code and the Commission's regulations.

**10.02. Special Court Affirmation.** After the Parties receive the Commission's report of findings and recommendations regarding the Agreement and after complying with the requirements of § 15.2-3400(4) of the Virginia Code, the Parties shall submit this Agreement in its present form, or in another form if the Parties amend this Agreement as permitted by § 15.2-3400(4) of the Virginia Code, to the Special Court for affirmation, as required by § 15.2-3400(5) of the Virginia Code.

**10.03. Termination if Agreement Not Affirmed.** This Agreement shall terminate if the Special Court fails to affirm and give full force and effect to this Agreement in its present form, unless the Parties agree to amend, modify, or supplement this Agreement consistent with Section 11.14.

**10.04. Attorneys' Fees and Costs.** Martinsville and Henry County shall be responsible for paying their own attorneys' fees and other costs associated with the preparation of this Agreement and the submission of this Agreement to the Commission and the Special Court.

**Section 11:**  
**MISCELLANEOUS**

**11.01. Effective Date.** Martinsville's transition from an independent city to a town located within and constituting part of Henry County shall be effective as of the date established by the Special Court.

**11.02. Binding on Future Governing Bodies.** Upon the Special Court's affirmation of this Agreement, this Agreement shall be binding upon and inure to the benefit of Martinsville and Henry County, and each of the future governing bodies of Martinsville and Henry County, and upon the Town of Martinsville and any other successor to either Martinsville or Henry County.

**11.03. Obligations and Agreements of the Town.** All of the obligations and agreements herein made by the City of Martinsville are deemed to also be the obligations and agreements of the Town of Martinsville.

**11.04. General Disposition of Liabilities and Assets.** Except as otherwise provided in this Agreement, the Town of Martinsville shall remain liable for all of the bonded indebtedness, current debts, obligations, and other liabilities incurred by the City of Martinsville, and the City of Martinsville's title, right, and privilege regarding any real property, personal property, agreement, or other matter shall vest in and become the title, right, and privilege of the Town of Martinsville. Except as otherwise provided herein, contracts and other liabilities of the Martinsville Public School Division, Martinsville's Constitutional Officers, and the Martinsville Courts and the clerks thereof, all of which will cease to exist upon the effective date of reversion, shall not transfer to the Henry County Public School Division, Henry County's Constitutional Officers, or the Henry County Courts and the clerks thereof that will commence providing services in Martinsville upon the effective date of reversion; neither shall any such contracts or other liabilities transfer to Henry County or the Town of Martinsville, unless otherwise provided herein.

**11.05. Maintenance and Condition of Properties and Assets.** From the date of the Parties' execution of this Agreement through the effective date of reversion:

**11.05.01.** Neither Martinsville nor the Martinsville Public School Division shall convey, otherwise dispose of, incur any debt on, or permit any encumbrance on any of their respective real or personal property being transferred to Henry County or the Henry County School Board pursuant to this Agreement; and

**11.05.02.** Martinsville and the Martinsville Public School Division shall maintain, repair, protect, and insure their respective real and/or personal property being transferred to Henry County or the Henry County School Board pursuant to this Agreement, and they shall not, through action or inaction, permit waste that would affect or impair the value of their respective real and/or personal property being transferred to Henry County or the Henry County School Board pursuant to this Agreement, ordinary wear and tear excepted.

**11.06. Funding.** Henry County shall be entitled to all funding, be it federal, state, local, or other, which is distributed or collected in connection with its provision of the services referenced in Sections 3 through 7 of this Agreement in Martinsville. The Parties covenant and agree that Martinsville's transition from city to town status is a consolidation for the purposes of § 15.2-1302(2) of the Virginia Code. The Parties jointly will use their best efforts at the General Assembly to request that, for purposes of distribution of State educational aid to the Henry County Public School Division, the State Board of Education will use the composite index of either Martinsville or Henry County, whichever is lowest, for a period of no less than 15 years following the effective date of reversion.

**11.07. Authority to Execute this Agreement.** This Agreement requires the approval of the Martinsville City Council and the Henry County Board of Supervisors, which shall be indicated by passage of a resolution by each of the respective governing bodies approving the Agreement. Upon approval of this Agreement by the respective governing bodies of Martinsville and Henry County, this Agreement shall be signed by their authorized representatives. The representatives signing this Agreement warrant and represent that they are authorized to execute this Agreement on behalf of the respective governing bodies of Martinsville and Henry County and to thereby bind the respective Parties to the terms of this Agreement.

**11.08. Entire Agreement.** This Agreement constitutes and contains the entire agreement and understanding between the Parties regarding the subject matter of this Agreement and supersedes all prior negotiations, agreements, or understandings between the Parties regarding any of the provisions of this Agreement. By entering into this Agreement, the Parties agree and understand that its provisions are consistent with those contemplated in the Memorandum of Understanding, which is superseded by this Agreement.

**11.09. Titles and Headings.** Titles and headings for the Sections and subsections of this Agreement are for convenience only and are not intended to limit, vary, define, or expand the terms contained this Agreement and shall not be used to interpret or construe the terms of this Agreement.

**11.10. Applicable Law and Construction.** This Agreement shall be construed and interpreted in accordance with the laws of Virginia. This Agreement shall not be construed against any of the Parties, but shall be given a reasonable interpretation.

**11.11. Performance of this Agreement.** The Parties agree to undertake and perform the obligations and agreements made in this Agreement in good faith. The Parties, all Constitutional Officers, and the two respective School Divisions shall, upon the execution of this Agreement, collaborate, cooperate and communicate to make plans for the transfer of personal property, real property, and services as provided in this Agreement. The Parties shall refrain from any act intended, or otherwise tending, to terminate, impair, supersede, preempt, circumvent, supplant, collaterally attack, frustrate, or otherwise diminish the validity, performance, or effect of the obligations and agreements made in this Agreement. Nothing in this Section 11.11 shall be construed to alter the Parties' rights to initiate, pursue, or resolve disputes or contested matters under Section 11.13. Nothing in this Section 11.11 shall be construed to alter the Parties' rights to propose, pursue, negotiate, agree to, or reject amendments, modifications, or supplementations under Section 11.14.



**11.12. Further Assurances; Preparation of Documents.** Prior to the effective date of reversion, the Parties shall prepare, execute, and deliver such additional instruments of assignment and conveyance and other documents and take such other actions as may be necessary or appropriate to carry out the intent of this Agreement and to vest title or convey rights as provided for herein. Without limiting the generality of the foregoing, the Parties shall collaborate in good faith to prepare, execute, deliver and, if appropriate, record: (i) deeds conveying real property pursuant to the terms of this Agreement and, to the extent necessary, related property descriptions, plats and surveys; (ii) bills of sale, titles or other documents conveying personal property pursuant to the terms of this Agreement; and (iii) amendments to existing revenue sharing and other agreements. With regard to any real or personal property conveyed pursuant to the Agreement, the Parties also shall convey all software applications, software licenses, warranties, maintenance records, copyrights, trademarks, or other licenses, permits or privileges related to such real or personal property.

**11.13. Disputes Under this Agreement.** From the execution of this Agreement through the effective date of reversion established by the Special Court, the Parties agree to arbitrate any dispute that arises in the performance or interpretation of this Agreement. Such arbitration shall be administered and conducted by the McCammon Group, Ltd. according to its standard arbitration rules governing at the time one of the Parties initiates a claim. The arbitrator shall be Justice Jane Roush. In the event Justice Roush is not available or is unwilling to serve, the arbitrator shall be such person as determined by agreement of the Parties or by the governing rules of McCammon. The fees for the arbitration services shall be borne equally by the Parties unless otherwise agreed. The Parties shall be represented by counsel in the arbitration. The law of Virginia shall govern. The arbitrator shall have the power to rule on her or his own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim. After the effective date of reversion, any contested matter between the Parties that relates to this Agreement's interpretation or performance, may be heard on application of either Party to the Special Court in accordance with § 15.2-4120 of the Virginia Code or, if such Special Court has dissolved, in a declaratory judgment action or other appropriate proceeding initiated on behalf of either Party in a federal court or a state court of appropriate jurisdiction; provided, however, the Parties shall jointly request that a judge designate from outside the Circuit or District be appointed to preside over any such proceeding in state court. For clarity, the mandatory arbitration provision contained herein shall expire as of the effective date of reversion. After the effective date of reversion, the Parties may mutually agree to submit any dispute to mediation or arbitration.

**11.14. No Third Party Beneficiaries.** The Agreement is entered into solely between and for the benefit of, and may be enforced only by, the Parties. This Agreement will not benefit, or create any right or cause of action in or on behalf of, any entity other than the Parties. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement.

**11.15. Amendments to this Agreement.** This Agreement may be amended, modified, or supplemented, in whole or in part, by mutual consent of Martinsville and Henry County, by a written document of equal formality and dignity, duly executed by the authorized representatives of the respective governing bodies of Martinsville and Henry County, without requiring further

review by the Commission or further affirmation by the Special Court unless otherwise required by law.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by the following authorized representatives.

CITY OF MARTINSVILLE, a municipal  
corporation of the Commonwealth of Virginia

By: \_\_\_\_\_  
Mayor of Martinsville

Attest:

\_\_\_\_\_  
Clerk

Date: \_\_\_\_\_

By: \_\_\_\_\_  
City Manager for Martinsville

Attest:

\_\_\_\_\_  
Clerk

Date: \_\_\_\_\_

HENRY COUNTY, a political subdivision of  
the Commonwealth of Virginia

By: \_\_\_\_\_  
Chair, Henry County Board of Supervisors

Attest:

\_\_\_\_\_  
Clerk

Date: \_\_\_\_\_

By: \_\_\_\_\_  
County Administrator for Henry County

Attest:

\_\_\_\_\_  
Clerk

Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_

City Attorney for Martinsville

By: \_\_\_\_\_

County Attorney for Henry County