

AT A MEETING OF THE CAMPBELL COUNTY BOARD OF SUPERVISORS
HELD AT RUSTBURG, VIRGINIA ON SEPTEMBER 10, 2024

A RESOLUTION DIRECTING STAFF TO PREPARE AND EXECUTE AGREEMENTS TO
RESOLVE THE REGION 2000 LANDFILL LITIGATION

WHEREAS, Campbell County and the City of Lynchburg instituted that certain lawsuit styled as County of Campbell & City of Lynchburg v. Region 2000 Services Authority, et al., Campbell Circuit Court Case No. CL20002216-00; and

WHEREAS, Appomattox County and Nelson County instituted that certain lawsuit styled as County of Nelson & County of Appomattox v. Region 2000 Services Authority, et al., Nelson Circuit Court Case No. CL22000180-00, which was transferred to be heard in the Campbell County Circuit Court; and

WHEREAS, the parties to said lawsuit have conferred through legal counsel and Region 2000 Services Authority Board representatives concerning the resolution of the issues raised in both lawsuits; and

WHEREAS, a framework which resolves all issues in both lawsuits and the future of waste disposal for Campbell County, the City of Lynchburg, Nelson County, and Appomattox County has been devised, and which proposal all parties to the said lawsuits deem appropriate and in the best interests of their respective localities and/or organizations; and

WHEREAS, a settlement agreement (hereinafter the “Settlement Agreement”) containing the material components of this Resolution, is to be drafted by the County Attorney for Campbell County and, upon approval by their respective counsels, signed by the chief executive officers of Campbell County, the City of Lynchburg, Nelson County, Appomattox County, and the Region 2000 Services Authority; and

WHEREAS, it is understood that the members of the currently constituted Board of the Region 2000 Services Authority are to vote at their next duly called meeting to make application to the Community Development office of Campbell County for a rezoning and special use permit for an expansion of the landfill on such land use-related terms as are stated in the document entitled “Region 2000 Regional Landfill –Livestock Road Facility Lateral Expansion” dated July 29, 2024 (hereinafter the “Rezoning Proposal”); and

WHEREAS, the enforcement of the Settlement Agreement is to be conditioned upon, and solely upon, the result of the Rezoning Proposal.

NOW, THEREFORE the Campbell County Board of Supervisors does hereby directs the County Attorney to draft and the County Administrator to execute such agreements, releases, and other legal documents to effectuate the purposes herein described, to wit:

RESOLVED, that the Campbell County Attorney shall draft a settlement agreement (hereinafter the “Settlement Agreement”) containing terms herein described, which agreement

shall be signed by the Campbell County Administrator once said agreement is in acceptable form, which said Settlement Agreement shall be circulated for the approval and signature of the chief executive officer of the City of Lynchburg and the Counties of Nelson and Appomattox, following affirmative action to endorse a Resolution in like form to this Resolution by the governing bodies of said jurisdictions; and

RESOLVED, that the Campbell County Board of Supervisors shall conduct all required processes, notices, and hearings required to consider the Rezoning Proposal, and shall take action on such proposal in normal course; and

RESOLVED, that the enforcement of the Settlement Agreement shall be conditioned upon, and solely upon, the result of the Rezoning Proposal; and

RESOLVED, if the Campbell County Board of Supervisors, after conducting all required processes, notices, and hearings required to consider the Rezoning Proposal, votes affirmatively to grant the Rezoning Proposal then the Settlement Agreement shall take full force and effect and become irrevocable by any party, and all parties shall immediately take such actions as are stated in the following clauses of this Resolution; and

RESOLVED, that the County Attorney for Campbell County and the City Attorney for the City of Lynchburg shall draft an Amended Member Use Agreement (hereinafter the “Amended MUA”) for the Region 2000 Services Authority governing the conduct of a future version of said Authority which shall be solely managed and governed by representatives appointed by the County of Campbell and the City of Lynchburg, which Amended MUA shall be presented to this Board for consideration and action at a future meeting of the Boards of the Counties of Appomattox, Campbell, and Nelson, and the City of Lynchburg for approval prior to its execution by their respective chief executive officers; and

RESOLVED, that the Settlement Agreement shall provide that the Counties of Appomattox, Campbell, and Nelson, and the City of Lynchburg shall by written consent order dismiss both pending lawsuits, Campbell County Case No. CL20002216-00 and Nelson County CL22000180-00, within thirty (30) days of the full execution of the Amended MUA; and

RESOLVED, that the Settlement Agreement and the Amended MUA shall both provide for the removal of the Counties of Appomattox and Nelson from the membership of and in the Region 2000 Services Authority, shall remove all right, title, and interest those counties have or have ever had in the Region 2000 Services Authority, and shall provide that, to the extent allowed by applicable law, that all liabilities on all bonds, as well as closure and post-closure liabilities, connected to the Regional 2000 Services Authority, will be the responsibility of the said Authority, and if applicable, Campbell County and the City of Lynchburg, and not Nelson County and Appomattox County. Further, the Amended MUA shall provide that Campbell County and the City of Lynchburg shall assume full responsibility for the management, operation, funding, and support of the Region 2000 Services Authority; and

RESOLVED, that the Settlement Agreement and the Amended MUA shall provide that the Region 2000 Services Authority shall distribute to the County of Appomattox, within thirty (30) days of the full execution of the Amended MUA, the sum of \$250,000.00; and

RESOLVED, that the Settlement Agreement and the Amended MUA shall provide that the Region 2000 Services Authority shall distribute to the County of Nelson, within thirty (30) days of the full execution of the Amended MUA, the sum of \$250,000.00; and

RESOLVED, that the Settlement Agreement and the Amended MUA shall provide that the Counties of Appomattox and Nelson shall be allowed, but not required, to haul all acceptable waste (as that term is defined in the current Region 2000 MUA) generated within the Counties of Appomattox and Nelson to the Region 2000 Services Authority Landfill from the date of the full execution of the Amended MUA until December 31, 2053 or the date of the closure of landfill contemplated by the Rezoning Proposal of the Region 2000 Services Authority, whichever is later; and

RESOLVED, that the Settlement Agreement and the Amended MUA shall provide that the Counties of Appomattox and Nelson shall be recognized as preferred haulers to the Region 2000 Services Authority landfill, who shall be charged the same tonnage rate charged to the Campbell County and the City of Lynchburg from the date of the full execution of the Amended MUA until December 31, 2053 or the date of the closure of the landfill contemplated by the Rezoning Proposal of the Region 2000 Services Authority, whichever is later; and

RESOLVED, that the Settlement Agreement and the Amended MUA shall provide that the County of Campbell shall receive an annual Host Fee for agreeing to be the continuing host locality for the landfill, which Host Fee shall commence in FY25/26, and which Host Fee shall be \$750,000.00 annually, which sum shall be adjusted annually for inflation in accordance with a recognized and published inflation factor; and

RESOLVED, that the Settlement Agreement and the Amended MUA shall provide that the County of Campbell shall annually appoint at its organizational meeting three (3) members of the staff of Campbell County government as Campbell County's representatives on the Board of the Region 2000 Services Authority, which members shall serve a three-year terms, and that the City of Lynchburg shall annually appoint at its organizational meeting three (3) members of the staff of the City of Lynchburg government as the City of Lynchburg's representatives on the Board of the Region 2000 Services Authority, which members shall serve a three-year terms; and

RESOLVED, that the Settlement Agreement shall provide that at the first meeting of the Board of the Region 2000 Services Authority following the enactment of the Amended MUA, that the Board shall affirmatively vote to make payment of all Excess Revenue held under the terms of the current Member Use Agreement held on deposit at the Region 2000 Services Authority, together with all interest accumulated on said sums, to the County of Campbell and the City of Lynchburg within thirty (30) days of the execution of the Amended MUA; and

As of August 31, 2024, such amounts are understood to be and due as follows:

To Campbell County: \$3,265,342.70, principal and interest

To City of Lynchburg: \$1,448,229.93, principal and interest; and

RESOLVED, that the Settlement Agreement shall provide that at the first meeting of the Board of the Region 2000 Services Authority following the enactment of the Amended MUA, that the Board shall affirmatively vote to make full payment of Seventy-Five percent (75%) of the Excess Revenue held subject to the currently-adopted Financial Policy held on deposit at the Region 2000 Services Authority, together with all interest accumulated on said sums, to the County of Campbell and the City of Lynchburg within thirty (30) days of the execution of the Amended MUA

As of August 31, 2024, such amounts are understood to be and due as follows:

To Campbell County: \$2,830,722.60, principal and interest; and

RESOLVED, that the Settlement Agreement shall provide that at the first meeting of the Board of the Region 2000 Services Authority following the enactment of the Amended MUA, that the Board shall affirmatively vote to establish a policy for the Region 2000 Services Authority purchase the real property of property owners located near the landfill landfill i) who have made consistent odor complaints to the Region 2000 Services Authority in relation to the existing landfill as of September 1, 2024, OR, ii) who's quality of life, through odor or other natural impacts, as determined solely by the Region 2000 Services Authority, may be egregiously impacted by the expansion of the landfill, for 110% of the assessed value of said property owner's home; and

RESOLVED, that the County Administrator and the County Attorney are hereby authorized and directed to take any and all actions necessary to carry out the substance of this Resolution on behalf of the County of Campbell. Such authority shall include, but is not limited to, drafting and executing the Settlement Agreement, drafting and executing preliminary documents connected to the preparation of the Settlement Agreement and/or the Amended MUA, and any and all other documents which may related to either or both of the same; and

RESOLVED, that as a result of the execution of the documents listed herein and in accordance with the terms herein, the total expected financial distributions to the members of the Region 2000 Services Authority pursuant to the terms of this Resolution shall be, as of the date of August 31, 2024:

The City of Lynchburg: \$1,448,229.93

The County of Campbell: \$6,096,065.30

The County of Nelson: \$250,000.00

The County of Appomattox: \$250,000.00

On motion of Board member _____ to adopt the Resolution and carried by the following recorded vote:

Ayes: _____

Nays: _____

Absent: _____

Attest: _____

Clerk, Board of Supervisors
County of Campbell, Virginia