

# ROANOKE VALLEY BROADBAND AUTHORITY

601 S. Jefferson Street, SW, Suite 110, Roanoke, VA 24011

**Frank M. Smith, II, President & CEO**

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[rvba.online](http://rvba.online)

## **BOARD MEMBERS:**

*Bob Cowell, City of Roanoke  
Gary Larrowe, Botetourt County  
Mike McEvoy, Citizen  
Daniel R. O'Donnell, Roanoke County  
James E. Taliaferro, II, City of Salem  
Dr. Scott Midkiff, Virginia Tech  
Keith Perry, Carilion*

## **Virtual Meeting Notice**

**TO:** Board of Directors, Alternates, Interested Stakeholders, Staff, Others

**RE:** December 14, 2020 Special Called-Virtual Meeting- Roanoke Valley Broadband Authority

A Special Called-Virtual Meeting of the Board of Directors of the Roanoke Valley Broadband Authority will be held on Monday, December 14, 2020 at 3:30 p.m. to discuss business necessary to continue operations of the Roanoke Valley Broadband Authority. Because of present state of emergency due to the COVID-19 pandemic, the public cannot be accommodated physically in proximity to the Member and Staff Participants. Any members of the public may view and participate in the meeting through electronic means. The meeting will be set up through Zoom at <https://zoom.us/j/96712615498?pwd=TmZwMmxUSmJPTmJIRGI1S3Z5VHI1Zz09>, Matt Miller, will be responsible for receiving public comments at 540-343-4417 and [mmiller@rvarc.org](mailto:mmiller@rvarc.org). All materials made available to the Members will be made available to the public at the same time by posting on <http://rvba.online/>.

A video and/or audio recording will be made available at <http://rvba.online> within three (3) working days of the meeting. The draft minutes of the meeting will be distributed to common interest community members through the same method used to provide notice of this meeting. Draft minutes of the meeting will be available at <http://rvba.online> within ten (10) working days of the meeting. Final minutes will be available at <http://rvba.online> within three (3) working days of approval.

Please note for purposes of planning to participate in the meeting remotely, members will be required to state the location (a general description such as home, office, or other) from which they are participating for purposes of compliance with new state law related to participation in electronic meetings during the COVID-19 crisis. The location will be recorded in the minutes of the meeting.

Topic: Special Called Meeting of the RVBA Board

Time: Dec 14, 2020 03:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/96712615498?pwd=TmZwMmxUSmJPTmJIRGI1S3Z5VHI1Zz09>

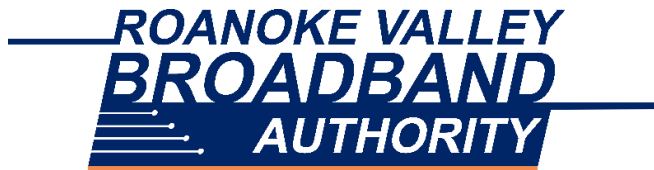
Meeting ID: 967 1261 5498

Passcode: 677546

One tap mobile

+19292056099,,96712615498#,,,,,0#,,677546# US (New York)

+13017158592,,96712615498#,,,,,0#,,677546# US (Washington D.C)



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**Special Called Meeting of the  
Roanoke Valley Broadband Authority Board  
Monday, December 14, 2020 at 3:30 p.m.  
Roanoke Valley Broadband Authority office, Suite 110 (Coulter Building)  
601 S. Jefferson Street, SW, Roanoke, VA 24011**

**AGENDA**

1. **Call to Order, Roll Call, Introductions** ..... *Chairman McEvoy*
2. **Contract Change Order and Agreement** ..... *Frank Smith, President & CEO*
  - a. Reimbursement and Hold Harmless Agreement
  - b. Resolution approving a Change Order to a Construction Contract
3. **Other Business**
4. **Adjournment**

## REIMBURSEMENT AND HOLD HARMLESS AGREEMENT

This Reimbursement and Hold Harmless Agreement is dated as of December \_\_\_, 2020, by and between the Roanoke Valley Broadband Authority (the “Broadband Authority”), a broadband authority formed and existing under Chapter 54.1 of Title 15.2 of the code of Virginia, 1950, as amended (the “Virginia Wireless Service Authorities Act”) and Botetourt County, Virginia (the “County”), a Virginia county.

### WITNESSETH:

WHEREAS, heretofore the Broadband Authority has undertaken to assist the County in the extension of its fiber facility from the Greenfield Training and Education Center in Botetourt County, Virginia (the “Original Project”); and,

WHEREAS, the County has procured certain funds under the CARES Act to provide for a 4.35 mile extension to the fiber facility terminating near the intersection of Route 630/Blacksburg Road and Route 672 Etzler Road (the “Extension Project”); and,

WHEREAS, the Board of Directors of the Broadband Authority has approved a change order to the original contract for the additional amount of \$835,000 to finance the Extension Project.

NOW THEREFORE, the parties agree as follows:

1. The County will reimburse and hold the Broadband Authority harmless from any claim based upon the untimely application of the CARES Act funds and specifically, if due to weather, construction, onsite or any other condition, the Extension Project is not completed in time to be funded with CARES Act funds.
2. The Broadband Authority agrees to provide the highest professional standards to its procurement and its contracting so that the CARES Act funds will have a reasonable opportunity to be correctly employed.
3. Ultimately the Original Project and the Extension Project will become part of the Broadband Authority’s fiber system and will be assets of the Broadband Authority.
4. Any notices or requests required to be given hereunder shall be deemed given if sent by registered or certified mail, postage prepaid, addressed (a) if to Roanoke Valley Broadband Authority, to 601 S. Jefferson, Suite 110, Roanoke, Virginia 24011 (Attention: President and CEO), with a copy to Glenn, Feldmann Darby & Goodlatte at 37 Campbell Avenue, S.W., Roanoke, Virginia 24011, Roanoke, Virginia, (b) if to the County, to Botetourt County, Virginia, 1 West Main Street, #1, Fincastle, Virginia 24090 (Attention: County Administrator) with a copy to Michael Lockaby, Esq., Guynn, Waddell, Carroll and Lockaby, P.C., 415 S. College Street,

Salem, Virginia 24153. Any party may designate any other address for notices or requests by giving notice under this paragraph.

5. This Agreement shall be governed by the laws of the Commonwealth of Virginia.

6. If any clause, provision or section of this Agreement shall be held illegal or invalid by any court, the illegality or invalidity of such clause, provision or section shall not affect the remainder of this Agreement which shall be construed and enforced as if such illegal or invalid clause, provision or section had not been contained in this Agreement.

7. This Agreement may be executed in counterparts each of which shall be an original and all of which together shall constitute but one and the same instrument. Facsimile and electronic signatures may substitute for and have the same effect as original signatures.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed in their respective names as of the date first above written.

ROANOKE VALLEY BROADBAND  
AUTHORITY

By: \_\_\_\_\_  
Frank M. Smith, II, President and CEO

BOTETOURT COUNTY, VIRGINIA

By: \_\_\_\_\_  
Gary Larrowe, County Administrator

RESOLUTION  
OF THE BOARD OF THE  
ROANOKE VALLEY BROADBAND AUTHORITY

Approving a Change Order to a Construction Contract

WHEREAS, the Roanoke Valley Broadband Authority (the “Authority”), an authority formed and existing in accordance with the provisions of Chapter 54.1 of Title 15.2 of the Code of Virginia, 1950, as amended, the Virginia Wireless Service Authorities Act (the “Act”), issued and advertised its Request for Proposals for the extension of its broadband system located in Botetourt County, Virginia (the “Original Project”); and,

WHEREAS the proposals received in response to the Request for Proposals were evaluated, vendors were selected and ranked, and discussions with and evaluations of such vendors’ proposals resulted in the Authority’s entering into a contract (the “Original Contract”) with LIT Communities in cooperation with TPRC Broadband LLC (“LIT/TPRC”) for the Original Project; and

WHEREAS, the Authority has the opportunity now, due to the availability of additional CARES Act funding, to contract for the continuation of the Original Project with an additional fiber project over a 4.35 mile section of Botetourt County terminating near the intersection of Route 630/Blacksburg Road and Route 672 Etzler Road (the “Extension Project”); and,

WHEREAS, the Executive Director has recommended to the Board that in light of the positive experience the Authority has had with LIT/TPRC and that firm’s familiarity with the Original Project, that the Board consider a change order to the Original Contract to provide for the Extension Project; and

WHEREAS, Virginia Code Section 2.2-4309 provides that while contracts may be modified during performance, no fixed-price contract may be increased by more than twenty-five percent (25%) of the amount of the contract or \$50,000, whichever is greater, without the advance written approval of the governing body of the Authority; and,

WHEREAS, the amount of construction costs anticipated for the Extension Project is approximately \$835,000, which is more than the statutory limit of the greater of \$50,000 or 25% of the price of the Original Contract, and requires the advance written approval of the governing body of the Authority; and,

WHEREAS, the Members of the Board of the Authority have carefully considered the benefits to the Authority of modifying the Original Contract rather than go through a request for proposal or a competitive bid process, and have taken into account the positive experience the

Authority has had with LIT/TPRC, as well as the efficiencies to be gained from having LIT/TPRC continue the work.

NOW THEREFORE, be it resolved by the Members of the Board of the Roanoke Valley Broadband Authority that after consideration of the terms, conditions and benefits thereof, the Members of the Board of Directors of the Roanoke Valley Broadband Authority do hereby approve the change order to the Original Contract in an amount estimated to be \$835,000 to provide for the construction of the Extension Project, as presented to this meeting; and

AND BE IT FURTHER RESOLVED, that the Executive Director is hereby authorized and directed to negotiate change orders to the Original Contract consistent with this resolution, to negotiate for terms beneficial to the Authority, including, but not limited to, (a) a pause in the construction of the Extension Project on December 30, 2020, in case the CARES Act funding is no longer available and (b) a satisfactory reimbursement and hold harmless agreement with Botetourt County to cover any obligations related to the CARES Act finding and to take all such further action as may be necessary or desirable in connection with and that are in conformity with the purposes and intent of this resolution.

This resolution shall take effect immediately.

Directors absent \_\_\_\_\_

Votes For \_\_\_\_\_

Votes Against \_\_\_\_\_

Abstentions \_\_\_\_\_

CERTIFICATION

The undersigned secretary of the Roanoke Valley Broadband Authority does hereby certify that the foregoing is a true, complete and correct Resolution adopted by a vote of a majority of the Members of the Roanoke Valley Broadband Authority, present at a special meeting of the Members of the Roanoke Valley Broadband Authority duly called and held December 14, 2020 at which a quorum was present and acting throughout, and that the same has not been amended or rescinded and is in full force and effect as of the date of this certification, December \_\_, 2020.

(SEAL)

\_\_\_\_\_  
Wayne G. Strickland, Secretary,  
Roanoke Valley Broadband Authority