

ACTIONS
Board of Supervisors Meeting of September 6, 2023

September 7, 2023

| AGENDA ITEM/ACTION | ASSIGNMENT | VIDEO |
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| <p>1. Call to Order.</p> <ul style="list-style-type: none"> The meeting was called to order at 1:00 p.m., by the Chair, Ms. Price. All BOS members were present except for Ms. McKeel. Also present were Jeff Richardson, Steve Rosenberg, Claudette Borgersen, and Travis Morris. | | |
| <p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> Mentioned that Attachment A for item #8.8 was uploaded to the website on September 5 By a vote of 5:0, ADOPTED the final agenda. | | |
| <p>5. Brief Announcements by Board Members.</p> <p><u>Bea LaPisto-Kirtley:</u></p> <ul style="list-style-type: none"> Announced that Maple Pine Thai restaurant had a very successful grand opening. <p><u>Jim Andrews:</u></p> <ul style="list-style-type: none"> Announced that Rivanna Solid Waste Authority will be holding Household Hazardous Waste Days at IVY MUC will be held from 9 am - 2 pm on Friday, September 22, and Saturday, September 23. Mentioned that registration for Electronic Waste Collection on September 16 was full and encouraged people to sign up for advanced notification of upcoming collections. Communicated the following special collection days: <ul style="list-style-type: none"> Furniture and Mattress – September 30, 2023 Appliances – October 7, 2023 Tires – October 14, 2023 Announced that the Seas the Day event for military-affiliated families will be held on Sunday, September 17, from 12 pm – 3 pm at Walnut Creek Park Announced that the Batesville Apple Butter Weekend would take place October 7-8, 2023. Announced the Esmont Community Day at Simpson Park would be held on September 30, 2023 <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Announced that the Light House Studio 22nd Annual Youth Film Festival will take place on September 15, 2023, at the Paramount Theater. Mentioned that the Department of Environmental Quality is developing a cleanup plan for water quality impairment of the North Fork Rivanna River watershed. A meeting will take place on September 20 at 6pm at the Stanardsville Library. In Luray, streams and rivers a closed for fishing due to low stream flow and high-water temperature. She cautioned the community that water levels in the area are low. <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> Invited community members to join Albemarle County Fire Rescue in a tribute to the victims of September 11, 2001. The tribute will be held on September 10, 2023, at Monticello High school at 8:30 a.m. | | Link to Video |

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| <p>6. Proclamations and Recognitions:</p> <p>a. Proclamation Recognizing National Hispanic and Latino Heritage Month.</p> <ul style="list-style-type: none"> • By a vote of 5:0, ADOPTED Proclamation and presented to Hilda Landaverde. <p>b. Claudette Borgersen, Certified Municipal Clerk.</p> <ul style="list-style-type: none"> • Recognized Claudette Borgersen for obtaining the Certified Municipal Clerks designation. | <p>(Attachment 1)</p> | |
| <p>7. From the Public: Matters Not Listed for Public Hearing on the Agenda or on Matters Previously Considered by the Board or Matters that are Pending Before the Board.</p> <ul style="list-style-type: none"> • <u>Marta Keane</u>, Chief Executive Officer at Jefferson Area Board for Aging (JABA) provided updates to the Board regarding activities at JABA. • <u>The following individuals spoke regarding item #11 – AC44 Phase 2: Planning Toolkits.</u> <ul style="list-style-type: none"> • Tom Olivier • Rob McGinnis • Amanda Bilchick | | |
| <p>8.2 Fiscal Year 2023 Appropriations.</p> <ul style="list-style-type: none"> • ADOPTED resolution to approve the appropriation #2023060 for County government projects and programs. | <p><u>Clerk:</u> Forward copy of signed resolution to Finance and Budget, and County Attorney's office. (Attachment 2)</p> | |
| <p>8.3 Personnel Policy Amendments - Part 1.</p> <ul style="list-style-type: none"> • ADOPTED Resolution to amend personnel policies § P-02, § P-20, § P-22, and § P-23, § P-26. | <p><u>Clerk:</u> Forward copy of signed resolution to Human Resources and County Attorney's office. (Attachment 3)</p> | |
| <p>8.4 Tax Refund Approval Request.</p> <ul style="list-style-type: none"> • ADOPTED Resolution to approve the refund requests and authorize the Department of Finance and Budget to initiate the refund payments. | <p><u>Clerk:</u> Forward copy of signed resolution to Finance and Budget and County Attorney's office. (Attachment 4)</p> | |
| <p>8.5 Mutual Aid Agreement for Fire and Rescue Services Between Albemarle County and the City of Charlottesville.</p> <ul style="list-style-type: none"> • ADOPTED Resolution to approve the mutual aid agreement for fire and rescue services with the City of Charlottesville and AUTHORIZED the County Executive to execute the agreement once it has been approved as to substance and form by the County Attorney. | <p><u>Clerk:</u> Forward copy of signed resolution to Fire Rescue and County Attorney's office. (Attachment 5)</p> <p><u>County Attorney:</u> Provide Clerk with fully executed copy of agreement. (Attachment 6)</p> | |
| <p>8.6 VDOT Revenue Sharing Program Applications.</p> <ul style="list-style-type: none"> • ADOPTED Resolutions in support of the submission of the following three Revenue Sharing projects: Commonwealth Drive/Dominion Drive Sidewalks, Berkmar Drive Bicycle and Pedestrian Improvements, and Berkmar Drive Extension to Airport Road. | <p><u>Clerk:</u> Forward copies of signed resolutions to Community Development and County Attorney's office. (Attachments 7-9)</p> | |
| <p>8.7 Initiate Traffic Calming Process Along Park Ridge Drive.</p> <ul style="list-style-type: none"> • ADOPTED Resolution to Request a Speed Study and Traffic Count of Park Ridge Drive between Eastern Avenue and Raven Stone Road. | <p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 10)</p> | |
| <p>9. Action Item: Resolutions Authorizing the Issuance of Bond Anticipation Note and Bond Issuance.</p> <ul style="list-style-type: none"> • By a vote of 5:0, ADOPTED Resolution authorizing the proposed plan of financing through the Economic Development Authority. | <p><u>Clerk:</u> Forward copy of signed resolution to Finance and Budget, Economic Development, and County Attorney's office. (Attachment 11)</p> | |
| <p>10. Presentation: Metropolitan Planning Organization (MPO) Smart Scale Changes and Review Process.</p> <ul style="list-style-type: none"> • RECEIVED. | | |

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| | Recess. At 2:47 p.m., the Board recessed and reconvened at 2:59 p.m. | |
| 11. | Work Session: AC44 Phase 2: Planning Toolkits. • Held. | <u>Community Development:</u> Proceed as discussed. |
| 12. | Board-to-Board, A Quarterly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors. • RECEIVED. | |
| 13. | Closed Meeting. • At 5:35 p.m., the Board went into closed meeting pursuant to section 2.2-3711(A) of the Code of Virginia: • under subsection (1), to discuss and consider appointments to various boards and commissions including, without limitation, 5 th and Avon Advisory Committee, Pantops Community Advisory Committee, Places 29 (Rio) Community Advisory Committee, Albemarle County Service Authority, Community Policy and Management Team, Albemarle-Charlottesville Regional Jail Authority, Jaunt, and Solid Waste Alternatives Advisory Committee. | |
| 14. | Certify Closed Meeting. • At 6:01 p.m., the Board reconvened into open meeting and certified the closed meeting. | |
| 15. | Boards and Commissions. a. Vacancies and Appointments. • REAPPOINTED , Mr. Craig Roller, Mr. Evan MacBeth, and Mr. Roger Schickedantz to the 5 th & Avon Community Advisory Committees with said terms to expire September 30, 2025. • APPOINTED , Ms. Kimberly Swanson to the Albemarle County Service Authority as the Rio District Representative, with said term to expire December 31, 2025. • APPOINTED , Mr. David Pastors to the Jail Authority with said term to expire August 6, 2026. • REAPPOINTED , Mr. Bill Wuensch and Mr. Jacob Sumner to the JAUNT Board with said terms to expire September 30, 2026. • REAPPOINTED , Ms. Anne Oliver to the Pantops Community Advisory Committee with said term to expire June 30, 2025. • REAPPOINTED , Mr. Martin Meth, Ms. Nicole Scro, Mr. Rick Seaman, Mr. Todd Cone, and Mr. Tom Paoletti to the Places 29 (Rio) Community Advisory Committee with said terms to expire September 30, 2025. • APPOINTED , Mr. Joe Szakos, and Mr. Michael Kruse to the Solid Waste Alternatives Advisory Committee with said term to expire May 31, 2027. | <u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons. |
| 16. | From the County Executive: Report on Matters Not Listed on the Agenda. • There were none. | |
| 17. | From the Public: Matters on the Agenda but Not Listed for Public Hearing or on Matters Previously Considered by the Board or Matters that are Pending Before the Board. • There were none. | |
| 18. | Pb. Hrg.: Fiscal Year 2024 Budget Amendment and Appropriations. | <u>Clerk:</u> Forward copy of signed resolution to Finance and Budget, |

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| <ul style="list-style-type: none"> By a vote of 5:0, ADOPTED resolution to approve the appropriations #2024007; #2024008; #2024009; and #2024010 for local government and school projects and programs. | and County Attorney's office. (Attachment 12) | |
| 19. <u>Pb. Hrg.: ZMA202300003 Maple Grove Church - Residential.</u> <ul style="list-style-type: none"> By a vote of 5:0, ADOPTED ordinance to approve ZMA202200003. | Clerk: Forward copy of signed ordinance to Community Development and County Attorney's office. (Attachment 13) | |
| 20. <u>Pb. Hrg.: Plank Road (Route 692) Through Truck Restriction.</u> <ul style="list-style-type: none"> By a vote of 5:0, ADOPTED Resolution to Request the Commonwealth Transportation Board to Restrict Through Truck Traffic on Plank Road. | Clerk: Forward copy of signed resolution Community Development and County Attorney's office. (Attachment 14) | |
| 21. From the Board: Committee Reports and Matters Not Listed on the Agenda. <u>Ned Gallaway:</u> <ul style="list-style-type: none"> Thanked the Board for allowing the Metropolitan Planning Organization (MPO) to present to the Board. | | |
| 22. Adjourn to September 20, 2023, 1:00 p.m. Lane Auditorium. <ul style="list-style-type: none"> The meeting was adjourned at 7:02 p.m. | | |

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- Attachment 1 – Proclamation Recognizing National Hispanic and Latino Heritage Month
- Attachment 2 – Resolution to Approve Additional FY 2023 Appropriations
- Attachment 3 – Resolution (Personnel Policy)
- Attachment 4 – Resolution Requesting Tax Refunds
- Attachment 5 – Resolution to Approve Fire and Rescue Mutual Aid Agreement Between the County and the City
- Attachment 6 – Mutual Aid Agreement (Draft)
- Attachment 7 – Resolution to Participate in VDOT Revenue Sharing Program for FY 2024 – Commonwealth Drive
- Attachment 8 – Resolution to Participate in VDOT Revenue Sharing Program for FY 2024 – Berkmar Dr. Bicycle
- Attachment 9 – Resolution to Participate in VDOT Revenue Sharing Program for FY 2024 – Berkmar Dr. Extension
- Attachment 10 – Resolution to Request Speed Study and Traffic County of Park Ridge Drive Between Eastern Avenue and Raven Stone Road
- Attachment 11 – Resolution Approving a Plan to Finance Certain Public Facilities Projects
- Attachment 12 – Resolution to Approve Additional FY 2024 Appropriations
- Attachment 13 – Ordinance No. 23-A(6) for ZMA 2023-00003
- Attachment 14 – Resolution to Request the Commonwealth Transportation Board Restrict Through Truck Traffic on Plank Road

Proclamation Recognizing National Hispanic and Latino Heritage Month

WHEREAS, Hispanic and Latino Americans make up 18.5% of the nation’s population, making them the largest ethnic minority, and enriching every community through their vibrant and diverse cultures and heritage; and

WHEREAS, Hispanic and Latino Americans enrich every community they are a part of through their vibrant and diverse cultures; and

WHEREAS, Hispanic and Latino community members make significant contributions through their leadership in government, protecting freedoms as part of the military, helping feed our community through agriculture, inspiring children as educators, helping heal our community as healthcare professionals, and advancing society through science and technology; and

WHEREAS, Hispanic and Latino-owned businesses contribute to Albemarle County’s economic growth and job creation; and

WHEREAS, the stories of Hispanic and Latino community members are woven into the fabric of our community and Hispanic and Latino history is our collective history.

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Albemarle County Board of Supervisors, do hereby recognize September 15 – October 15 as the 55th National Hispanic and Latino Heritage Month and recommit to building an equitable and inclusive society that works for all members of our community.

Signed this 6th day of September 2023

**RESOLUTION TO APPROVE
ADDITIONAL FY 2023 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:


- 1) That Appropriation #2023060 is approved;
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2023.

RESOLUTION

WHEREAS, the Board of Supervisors may adopt Personnel Policies under Albemarle County Code §2-901; and

WHEREAS, the Board desires to amend and re-number the following Policies: §P-4 Employee Records as §P-02; §P-86 Family Medical Leave as § P-20; §P-12 Fitness for Duty as §P-22; §P-89 Workers' Compensation as §P-23; and §P-91 Americans with Disabilities Act as §P-26

NOW, THEREFORE, BE IT RESOLVED, the Board of Supervisors of Albemarle County, Virginia, hereby approves the renumbering and amendment to the County's Personnel Policies as set forth in the documents attached hereto.

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|  | P - §02 | Policy Name: Employee Record Maintenance | Current Version Approved: September 6, 2023 |
| | Prepared By: Human Resources | | Adopted: August 4, 1993 |
| | Amended: September 6, 2023 | | |

A. PURPOSE

The purpose of the policy is to set forth compliance-driven guidelines for retention and maintenance of employment records.

B. DEFINITIONS

Employee Records – all records pertaining to employment, including benefits, eligibility, training history, performance reviews, disciplinary actions, job experience and history and compensation history that constitute the personnel file.

Health Insurance Portability and Accountability Act (HIPAA) – Federal law requiring standards for protecting patient health and medical information.

Personal Identity Information (PII) – Information that directly identifies an individual such as passport number, social security number, driver’s license number, financial account numbers or other tax identification. Additionally, physical and email addresses may be considered PII if used in conjunction with other demographics to locate a person.

Protected Health Information – individually identifiable health information including medical conditions, health status, medical history, physical examination or laboratory test results, genetic information, and evidence of disability.

Virginia Freedom of Information Act (FOIA) - a series of laws designed to guarantee that the public has access to public records of government bodies at all levels in Virginia.

C. ROLES AND RESPONSIBILITIES

Employees:

- a. Employees may review the contents of their personnel files.

Supervisors:

- b. Timely delivery of all employee records to Human Resources.

Human Resources:

- c. Maintains personnel files in accordance with requirements set forth by the Library of Virginia, protects their confidentiality, and maintains a log of all those who access a personnel file.

D. POLICY

1. Access to Employee Personnel Files

- a. Employee personnel files are maintained by HR. Employees may request copies of the records in their personnel files.
- b. Requests for access to an employee's personnel file must be in writing to HR. Upon receipt, HR will provide access or a copy of all requested records within five (5) business days.
- c. Parties issuing subpoenas for employee records will be charged reasonable costs.
- d. The County will withhold an employee's personnel information from all FOIA requests as permissible in Virginia Code.

2. Maintenance of Employee Records

The following information is segregated within an employee's personnel file, and not subject to supervisor review without prior approval from HR: investigation notes, grievances, and discipline. Employee records that are not subject to supervisor review: FMLA, I9, retirement, workers compensation claims, Compliance Reports, Protected Health Information (PHI), and benefits elections.

Records relating to disciplinary investigations, where the violation being investigated is determined not to have occurred, are transferred to the segregated portion of an employee's personnel file, but may be retained there if such information alleges civil or criminal offenses.

3. Protected Health Information (PHI)

The County facilitates benefits enrollment and modifications, including qualifying life events, establishes payroll deductions, and assists with claims resolution and benefit plan coordination. These activities may require the disclosure of PHI. Generally, disclosures may be made to:

- a. Healthcare providers for treatment, payment, or claims reconciliation
- b. Third parties authorized by the employee
- c. Government agencies for reporting or enforcement purposes
- d. Workers' compensation administrators and their authorized partners

- e. Information external to the health plan is not considered PHI if the information is being furnished for claims processing purposes involving workers' compensation or short to long-term disability and medical information received to verify the Americans with Disabilities Act (ADA) or Family and Medical Leave Act (FMLA) status

4. Destruction of Employee and Applicant Records

a. Before destroying employee or applicant records:

- i. HR ensures that no outstanding investigation, litigation hold, audit, or Freedom of Information Act requests is in progress.
- ii. A Library of Virginia RM-3 Form, verifying compliance with record retention and disposition schedules is completed and submitted to the Commonwealth.

b. Employment application materials of non-selected candidates are retained for one year. Application materials for those who accepted a verbal or written offer, but never started work, are treated as employee personnel files.

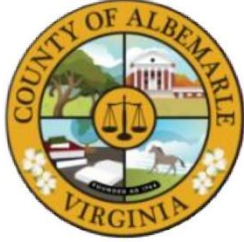
c. Employment records must be securely destroyed. This includes:

- Destroying or erasing electronic files so that information cannot be read or reconstructed.
- Shredding, burning, or otherwise destroying paper documents so that information cannot be read or reconstructed.

5. Litigation Holds

When the County Attorney's Office anticipates that the County may be involved in litigation, it will issue a litigation hold. All records relating to that matter must be preserved. Failing to do so may subject the County, as well as individual employees, to Court sanction.

The IT department will suspend the automatic deletion of emails for all individuals covered by the litigation hold. Any questions about a litigation should be directed to the County Attorney's Office.

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|  | P - §20 | Policy Name: Family Medical Leave | Current Version Approved: September 6, 2023 |
| | Prepared By: Human Resources | | Adopted: September 1, 1993 |
| | Amended: June 1, 2005; September 6, 2023 | | |

A. PURPOSE

In accordance with the Family and Medical Leave Act (FMLA), the County will grant up to 12 weeks of unpaid leave during a 12-month period to eligible employees (or up to 26 weeks of military caregiver leave).

The purpose of this policy is to provide a general description of employees’ FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

B. DEFINITIONS

Child - means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18 or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA leave is to commence.

Family - is defined as the employee’s spouse, children, and parents.

Fitness for Duty - is possessing the physical, emotional, and mental capacities to safely and effectively perform the essential functions of an employee's job, with or without reasonable Americans with Disabilities Act accommodation, in a manner that does not present a direct threat of harm to self or others.

Health Care Provider - is a licensed Doctor of Medicine or osteopathy or any other person determined by the U.S. Secretary of Labor to be capable of providing healthcare service.

Key Employee - is defined as a salaried FMLA-eligible employee who is among the highest-paid 10 percent of all County employees.

Parent - means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a child. This term does not include parents “in law.”

Qualifying exigency - includes short-notice deployment, military events and activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities that arise out of active duty, provided that the employer and employee agree, including the agreement on timing and duration of the leave.

Serious health condition - means an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider that causes the employee to be absent from work on a recurring basis or for more than three days.

Spouse - means a husband or wife as defined or recognized in the state where the individual was married and includes individuals in common law or same-sex marriage.

Week - is defined as the authorized regularly scheduled hours of the employee’s position.

Year - is defined as a rolling 12-month period measured backward from the date an employee uses FMLA leave.

C. ROLES AND RESPONSIBILITIES

Employees – All employees requesting FMLA must provide verbal or written notice of the need for leave to the Human Resources Department. If the need is foreseeable, the employee must provide at least 30 days’ notice.

Supervisors – Must recognize when an employee’s absence may fall under FMLA. Supervisors are responsible for responding to employee leave requests and notifying Human Resources as soon as an employee is absent for more than 3 days due to a personal or family member illness or injury.

Human Resources – The Human Resources Department must provide employees with information about the leave designation process and explain any required documentation. HR is responsible for notifying the employee, employee’s supervisor and department head upon designation and approval of family medical leave, as well as facilitating the return to work process.

D. POLICY

Albamarle County provides job-protected, unpaid leave to eligible employees for a qualifying condition under certain circumstances described in accordance with the Family and Medical Leave Act of 1993 and all subsequent amendments.

1. Eligibility

To be eligible for leave under this policy, employees must meet **all** of the following requirements:

- Have worked at least twelve (12) months for Albemarle County.
- Have worked at least 1,250 hours for Albemarle County over the twelve (12) months preceding the date the leave would commence.
- Have not used all available FMLA Leave within the 12-month rolling year.

2. Reasons for Leave

To qualify as FMLA leave under this policy, the leave must be for one of the following reasons:

- The birth of a child or placement of a child with the employee for adoption or foster care.
- To care for a spouse, child, or parent who has a serious health condition.
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job.
- For any qualifying exigency arising out of the fact that a spouse, child, or parent is a military member on covered active duty or on call to covered active-duty status.
- To care for a covered service member with a serious injury or illness.

3. Amount of Leave

- A. An eligible employee can take up to 12 weeks of FMLA leave during any 12-month period. The County will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the County will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave.
- B. An eligible employee can take up to 26 weeks for the FMLA military caregiver leave during a single 12-month period. For this military caregiver leave, the County will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.
- C. Eligible spouses who both work for the County may only take a combined total of 12 weeks of leave for the birth of a child, adoption, or placement of a child in foster care, or to care for a parent with a serious health condition. Both may only take a combined total of 26 weeks of leave to care for a covered injured or ill service member (if each spouse is a parent, spouse, child or next of kin of the service member).

4. Intermittent Leave or Reduced Work Schedule

A health care provider may necessitate an "intermittent" leave or reduced leave schedule to care for a seriously ill family member or for the employee's own serious health condition where the need for leave is foreseeable and based on planned medical treatment. In the case of a reduced leave schedule or intermittent use of leave, the health care provider must indicate on the Health Care Provider (WH-380) the need for the leave.

The County will attempt to find work for the employee in accordance with medical provider restrictions and so that it does not place an operational hardship on the department or impede service to the community. As such, the County may temporarily transfer the employee to an available alternative position with equivalent pay and benefits.

For the birth, adoption or foster care of a child, the County and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced-hour schedule. Leave for birth, adoption, or foster care of a child must be taken within one year of the birth or placement of the child.

When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the County's operations.

5. Use of Paid and Unpaid Leave

- A. An employee who is taking FMLA leave because of the employee's own serious health condition, or the serious health condition of a family member will first be compensated using any accrued sick leave and sick bank benefits, as applicable. Sick leave will run concurrently, until exhausted or up to a maximum 12 weeks, with the FMLA leave if the reason for the FMLA leave is covered by the adopted sick leave policy.
- B. The remainder, if any, of the family medical leave requested will be paid from accrued annual leave and earned compensatory leave prior to the employee receiving unpaid leave, except that the employee may save one (1) week of annual leave for use at a later time.
- C. An employee who is using military FML leave for a qualifying exigency must use all paid annual leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid annual, or sick leave (as long as the reason for the absence is covered by the County's sick leave policy) prior to being eligible for unpaid leave.
- D. Employees on unpaid FML are not eligible for any unemployment benefits.

6. Intent to Return to Work

- A. When FMLA leave was for the employee's own serious health condition, certification from the health care provider releasing the employee to work is required.
- B. If an employee is medically certified to return to work in a restricted capacity or through alternative schedule arrangements, management from the home department and Human Resources will discuss possible options with the employee.
- C. The County may require a second opinion by a health care provider of its choice, and at its expense. If the two opinions differ, a third opinion may be requested from a provider selected jointly by the employee and the County. This third opinion, to be paid for by the County, is final and binding. It is the employee's responsibility to provide the County with up-to-date medical status while on FMLA.

7. Restoration to Position

When an eligible employee is released to return to work following FMLA, the employee will be restored to the position held at the time the leave began or to an equivalent position with equivalent benefits, compensation and other terms and conditions of employment. In order to be guaranteed restoration, the employee must return to work at or before the end of the 12-week FMLA period.

Certain "key" employees may be denied job restoration. A "key" employee is defined as a salaried FMLA-eligible employee who is among the highest-paid 10 percent of all County employees. A key employee will be notified as soon as practicable after receipt of a request for FMLA that he is considered to be a key employee.


8. Unable to Return to Work

If an employee is medically unable to return to work at the end of the 12 weeks of FMLA leave, Additional time off may be granted, at the discretion of the County and based upon the likelihood of the employee returning to work at full capacity.

The employee may reach maximum medical improvement (MMI) meaning treatment options have been exhausted and the condition may not improve any further allowing the employee to return to full duty at the job the employee had prior to the injury. If the employee's absence exceeds six months or if the County's circumstances have changed during the employee's absence so as to make it impossible or unreasonable not to discharge the employee, Human Resources will begin the dismissal process. This is a non-disciplinary termination made based on the fact that the employee is unable to meet the essential functions of the job. (Code of Virginia § 40.1-27.1.)

9. Record Keeping

The Department of Human Resources shall maintain confidential medical records necessary to demonstrate compliance with FMLA. Such medical and health records are kept separate from employment documents and are exempt from Freedom of Information Act (FOIA) inquiries.

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|  | P - §22 | Policy Name: Fitness for Duty | Current Version Approved: September 6, 2023 |
| | Prepared By: Human Resources | | Adopted: August 4, 1993 |
| | Amended: September 6, 2023 | | |

A. PURPOSE

The purpose of the policy is to ensure that employees are physically and mentally capable of performing the essential functions of their positions, with or without reasonable accommodations as mandated by the Americans with Disabilities Act.

B. DEFINITIONS

Americans with Disabilities Act – civil rights law enacted in 1990, and amended in 2008, that prohibits discrimination based on person’s disability.

Fit for Duty (FFD) - possessing the physical, emotional, and psychological capability to safely and effectively perform the essential functions of the job, with or without reasonable accommodation, in a manner that does not present a direct threat of harm to self or others.

Health Care Provider (HCP) – a licensed medical care provider or any other person determined by the U.S. Secretary of Labor to be capable of providing healthcare service.

C. ROLES AND RESPONSIBILITIES

Employees:

- a. Performing essential functions of their position in a safe and effective manner, with or without reasonable accommodations during the entire time at work;
- b. Notifying a supervisor when they are no longer fit for duty due to injury, illness, or medical condition;
- c. Notifying a supervisor when a coworker is observed acting in a manner that indicates the coworker may not be fit for duty; and
- d. Providing relevant medical documentation to the Human Resources Department when a health care provider has determined a changed in the ability to perform the essential functions of their position.

Supervisors:

- a. Observing the attendance, performance, and behavior of the employees under their supervision;
- b. Notifying Human Resources when an employee is exhibiting behavior that suggests they may not be fit for duty;
- c. Maintaining the confidentiality of an employee's medical information; and
- d. Implementing any reasonable accommodation deemed necessary.

Human Resources:

- a. Soliciting information from the supervisor regarding employee behaviors or performance and from the employee regarding any relevant previous or current medical or psychological treatment information;
- b. Coordinating a Fit for Duty Assessment, as necessary;
- c. Communicating the results to the employee if not done so by the health care provider;
- d. Discussing recommendations and subsequent accommodations with the supervisor; and
- e. Communicating with the employee as to their rights, responsibilities, and employment status.

D. POLICY

This policy outlines the responsible parties and necessary actions when an employee's fitness for duty (FFD) is in question, the steps necessary to assess the employee's physical or mental capabilities, necessary follow-up, and return to work requirements.

- a. All employees will be informed of the minimum responsibility to maintain their physical, mental, and emotional health (including free of the effects of alcohol and drugs) to a degree required to carry out their responsibilities as employees. An employee shall not be allowed to work unless the employee is able to safely perform the essential job functions, with or without reasonable accommodation.
- b. All County job descriptions will clearly state the minimum physical and emotional health requirements of the position. Employees are responsible for familiarizing themselves with these requirements.
- c. If a supervisor suspects that an employee is not fit for duty, i.e., is unable to effectively perform their responsibilities due to physical or emotional health problems, the supervisor must refer the employee to the Human Resources Department to arrange a fitness for duty


evaluation. The evaluation will be conducted at County's expense and the employee will be paid their regular rate of pay during the evaluation.

- d. Before initiating a fitness for duty evaluation, the employee's supervisor will meet with Human Resources (HR) to discuss the observed behavior/circumstance that has caused concern about the employee's fitness for duty. HR will determine the appropriateness of a fitness for duty evaluation. The employee will also be given the opportunity to provide any relevant medical or psychological treatment information.
- e. The Fitness for Duty evaluation can be conducted by the employee's own health care provider if the employee is currently receiving care. However, the County has the right to require the evaluation be conducted by an independent licensed healthcare professional at the County's expense. **A fitness-for-duty evaluation must be job-related and consistent with business necessity under the Americans with Disabilities Act (ADA).**
- f. To the extent allowed by law, the County will protect the confidentiality of the evaluation and the results.
- g. Employees may be placed on paid administrative leave while waiting for the results of the fitness for duty exam.
- h. Non-compliance with a request for a Fitness for Duty evaluation shall be cause for disciplinary actions up to and including dismissal.
- i. The employee's satisfactory work performance is the basis for continued employment. Participation in a treatment or rehabilitation program does not guarantee continued employment and will not prevent disciplinary action for violation of County policies or regulations. An employee must comply with all treatment recommendations resulting from a fitness for duty evaluation.
- j. If the fitness for duty evaluation indicates that the employee is capable of performing the essential job functions by receiving medical treatment, it shall remain the responsibility of the employee to undergo the treatment. Failure to do so may result in dismissal from employment.
- k. When an employee returns to work after hospitalization or prolonged absence for health reasons, the County may require fitness for duty evaluation prior to resuming regular work activities.

E. RESOURCES

Americans with Disabilities Act of 1990, 42 U.S.C. §12101, as amended.

Code of Virginia § 22.1-301, as amended. Cost of medical examinations and of furnishing medical records.

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|  | P - §23 | Policy Name: Worker's Compensation | Current Version Approved: September 6, 2023 |
| | Prepared By: Human Resources | | Adopted: September 3, 2008 |
| | Amended: April 1, 2019; September 6, 2023 | | |

A. PURPOSE

The purpose of this policy is to outline the basic requirements of Virginia Worker's Compensation regulations and the associated requirements of County staff.

B. DEFINITIONS

Family Medical Leave (FML) – A type of leave that provides certain employees with up to 12 weeks of unpaid, job-protected leave per rolling calendar year.

Health Care Provider (HCP) - a licensed medical care provider or any other person determined by the U.S. Secretary of Labor to be capable of providing healthcare service.

Maximum Medical Improvement (MMI) - treatment options have been exhausted and the condition cannot not be improved to allow the employee to perform the full scope of the essential functions of their position.

Virginia Worker's Compensation Act – legislation established to provide specific benefits to workers injured out of and in the course of their work and to provide employers with protection from civil suit.

Virginia Worker's Compensation Commission – carries out the requirements of the Virginia Workers' Compensation Act, while administering Virginia's workers' compensation program, meeting legal requirements and providing various protections.

C. ROLES AND RESPONSIBILITIES

Employee – Employees are required to immediately report all work-related injuries and illnesses to a department supervisor. This includes any injury that occurs while working and any illness that is believed to be caused by conducting County business. All incidents must be reported regardless of severity. Late reporting or failure to report may result in delayed or denied Workers' Compensation benefits.

Human Resources – The Department of Human Resources is responsible for providing assistance and information to employees with respect to workers' compensation benefits and return to work procedures and requirements.

Manager/ Supervisor –

- a. Submitting a First Report of Injury immediately upon notification of a work-related injury or illness, or upon obtaining knowledge of the event. All reports must be submitted within 24 hours of the accident, injury, illness, receipt of notice, or obtaining knowledge, whichever occurs the earliest.
- b. Accurately recording absences due to a work-related injury or illness using appropriate timekeeping processes.
- c. Reporting any changes in work status or capability of the injured worker to Human Resources, as soon as possible.

Workers' Compensation Third-Party Administrator - The Workers' Compensation program is administered through a Third-Party Administrator, which handles all employee claims, investigations, and filings with the Virginia Workers' Compensation Commission.

D. POLICY

It is Albemarle County's policy to adhere to all federal and state laws pertaining to Worker's Compensation benefits, and to strive to bring all employees back to their pre-injury/illness work capabilities.

1. LEAVE USAGE

- a. *First 7 Days of Absence* – During the first seven (7) calendar days of absence, beginning from the first full day of work missed due to injury or illness, an employee may use accrued sick leave to account for the absence. If all sick leave has been exhausted, the employee may use other accrued leave in accordance with procedures established by the Department of Human Resources. If no leave is available, these days will be unpaid.
- b. *Absence After 7 Days* – Beginning on the eighth (8) calendar day of absence due to a compensable work-related injury or illness, the employee will receive income benefits equal to 2/3 (66%) of their average weekly wages. Also beginning on the eighth (8) day, the employee may use accrued leave in accordance with procedures established by the Department of Human Resources to supplement their Workers' Compensation income benefits as follows:
 - The leave shall not exceed 1/3 (34%) of the employee's normally scheduled, non-overtime work hours on any shift.

- Accrued sick leave must be taken first. After sick leave is exhausted, the employee may use other accrued leave in accordance with policies and procedures established by the Department of Human Resources.
 - All leave must be accrued by the time of usage. Employees may not borrow against future leave accrual.
- c. *Benefits After 21 Days of Absence* – If the absence due to compensable injury or illness exceeds twenty-one (21) calendar days, the employee will be reimbursed for the leave used during the first seven (7) calendar days and will receive pay for 2/3 (66%) of the employee’s average weekly wage. The employee will be allowed to keep this reimbursement without obligation to return any payments to the County.
- d. *Denied Claims* – If a Workers’ Compensation claim is deemed non-compensable, standard leave policies shall apply to any leave taken by the employee.
- e. *Family Medical Leave* – Eligible employees will be placed on Family Medical Leave after an absence of three (3) consecutive workdays due to injury or illness, if the employee is unable to return to work at full capacity. This occurs regardless of whether the worker’s compensation claim is accepted or denied.

2. CONTINUITY OF BENEFITS

The County will continue all applicable contributions toward retirement, life insurance, health insurance, and dental insurance during the period an employee is absent for a compensable injury/illness. The employee is responsible to make payment arrangements to cover their portion of required contributions.


3. RETURN TO WORK

- a. Upon the medical provider’s release to return to work in any capacity, the employee is expected to return to work if the County is able to accommodate any medical restrictions. Alternate work may be assigned within the County to accommodate medical restrictions; however, the pre-injury rate of pay will be maintained. If the employee refuses to return to work in the full-duty or restricted-duty capacity approved by the treating physician/health care provider, the County may take all actions permitted under law, including but not limited to contesting the employee’s entitlement to further Workers’ Compensation benefits before the Virginia Workers’ Compensation Commission and/or termination of employment.
- b. If an employee reaches maximum medical improvement (MMI), or an employee’s absence exceeds six months, or the County’s circumstances have changed such that an employee’s absence creates an operational hardship, the County may seek other employment options or begin a non-disciplinary termination of employment. (*Code of Virginia* § 40.1-27.1.)

E. RESOURCES

Code of Virginia Workers' Compensation

DOL Workers' Compensation

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|  | P - §26 | Policy Name: Americans with Disabilities Act (ADA) and Americans with Disabilities Amendments Act (ADAAA) | Current Version Approved: September 6, 2023 |
| | Prepared By: Human Resources | | Adopted: May 3, 2017 |
| | Amended: September 6, 2023 | | |

A. PURPOSE

The purpose of this policy is to ensure compliance with all laws federal and state laws concerning the employment of individuals with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC).

B. DEFINITIONS

Americans with Disabilities Act – law that prohibits discrimination against people with disabilities.

Direct threat - A significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.

Disability - a physical or mental impairment that substantially limits one or more major life activities, a record (or past history) of such an impairment or being regarded as having such an impairment.

Essential functions - responsibilities that are determined by the employer to be critical or core to performing the job; the purpose of the position in the organization.

Major life activities – functions necessary for sustaining quality of life. Examples include but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, intellectual disability, mental illness, and major bodily functions. Detailed lists of covered functions are found in the ADA and ADAAA language.

Qualified individual - an individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position and who, with or without reasonable accommodation, can perform the essential functions position.

Reasonable accommodation - modification or adjustment to a job, the work environment, or the way things are usually done, that does not create an undue hardship to the employer.

Substantially limiting - a person is unable to perform an activity as compared to an average person in the general population.

Undue hardship - an action requiring significant operational difficulty, impaired service levels, or expense by the employer.

C. ROLES AND RESPONSIBILITIES

Employees – responsible for notifying Human Resources if they believe they need accommodation.

Managers/Supervisors – responsible for notifying Human Resources if an employee has indicated that they have a disability, is perceived in having a disability, or has asked for an accommodation.

Human Resources –

- ensures that all job candidates are given fair and equal consideration without judgment or penalty for any type of disability covered under the ADA/ADAAA.
- ensures that all hiring, termination, training, promotion, and other employment factors adhere to the guidelines outlined in the legislation.
- reviews each request for accommodation, or the perceived need of accommodation, on a case-by-case basis.
- Works with departments to determine whether an accommodation would pose an undue hardship.

D. POLICY

The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are federal laws that prohibit disability discrimination in all employment practices including job application procedures, hiring, termination, advancement, compensation, training, and other terms, conditions, and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities. It is the policy of Albemarle County to comply with all federal and state laws concerning the employment of persons with disabilities.

1. Job applicants and employees who are qualified individuals with a disability are protected. This includes employees with known limitations related to pregnancy, childbirth, or related medical conditions (Virginia Values Act).
2. Reasonable Accommodation
 - a. Pre-employment
 1. Applicants with a disability who can be reasonably accommodated will be given the same consideration for employment as any other applicant.

2. Human Resources will engage in the interactive process with the applicant to determine if the County can provide a reasonable accommodation without creating an undue hardship or causing a direct threat to workplace safety.
 3. Applicants who pose a direct threat to the health, safety, or well-being of themselves or others in the workplace, and when the threat cannot be eliminated by reasonable accommodation, will not be hired.
- b. Employee Request
1. Employees with a disability may request a reasonable accommodation by contacting Human Resources or their supervisor verbally or by email.
 2. Human Resources will engage in the interactive process with employees with a disability to determine if the County can provide a reasonable accommodation without creating an undue hardship or causing a direct threat to workplace safety.
 3. Albemarle County will reasonably accommodate qualified individuals unless doing so causes a direct threat to these individuals or others in the workplace. However, if the accommodation creates an undue hardship to Albemarle County, the accommodation will not be utilized.
 4. Service Animals are defined by the ADA as dogs that are individually trained to do work or perform tasks for people with disabilities and may be considered in an accommodation request. If approved, the following rules apply:
 - a. A service animal must be under the control of its handler. Under the ADA, service animals must be harnessed, leashed, or tethered, unless the individual's disability prevents using these devices or the devices interfere with the service animal's safe, effective performance of tasks.
 - b. When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (I) is the dog a service animal required because of a disability, and (II) what work or task has the dog been trained to perform.
 - c. Staff cannot ask about the person's disability, require medical documentation, require a special identification card on training documentation for the dog, nor ask that the dog demonstrate its ability to perform the work or task.
 - d. Emotional support animals, comfort animals, and therapy dogs are not service animals under Title II and Title III of the ADA. Other species of animals, whether wild or domestic, trained or untrained, are not

considered service animals. The work or tasks performed by a service animal must be directly related to the individual's disability.

3. Excluded from Coverage

a. Direct Threat

Individuals who pose a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation are excluded from coverage under the County's ADA policy.

b. Illegal or illicit Drugs

Individuals who are currently using illegal or illicit drugs are excluded from coverage under the County's ADA policy.

E. RESOURCES

[Americans with Disabilities Act](#)

[Library of Virginia](#)

[Service Animals](#)

**RESOLUTION
REQUESTING TAX REFUNDS**

WHEREAS, Virginia Code § 58.1-3981 requires that erroneous tax assessments be corrected and that a refund, with interest as applicable, be paid back to the taxpayer;

WHEREAS, Tax refunds resulting from erroneous assessment over \$10,000 must be approved by the Board of Supervisors, after being certified by the Chief Financial Officer and the County Attorney;

NOW, THEREFORE, BE IT RESOLVED that a refund in the amount of \$10,369.48 has been reviewed and certified due to the business being located in the City of Charlottesville and not Albemarle County and that this refund shall be remitted to PBM Holdings LLC. to conform with Virginia Code § 58.1-3981;

BE IT FURTHER RESOLVED that a refund in the amount of \$26,687.15 has been reviewed and certified due to overpayment on a business that has closed and that this refund shall be remitted to Cheryl L. Fittery to conform with Virginia Code § 58.1-3981;

BE IT FURTHER RESOLVED that a refund in the amount of \$35,609.40 has been reviewed and certified due to business overestimation and that this refund shall be remitted to Flow Motors to conform with Virginia Code § 58.1-3981;

BE IT FURTHER RESOLVED that a refund in the amount of \$38,032.89 has been reviewed and certified due to taxpayer overpayment and that this refund shall be remitted to Forest Springs LLC. to conform with Virginia Code § 58.1-3981.

**RESOLUTION TO APPROVE THE ALBEMARLE COUNTY
FIRE AND RESCUE
MUTUAL AID AGREEMENT BETWEEN THE COUNTY OF ALBEMARLE
AND THE CITY OF CHARLOTTESVILLE**

WHEREAS, the Board finds it is in the best interest of the County of Albemarle to enter into a Mutual Aid Agreement with the City of Charlottesville to continue the fire and rescue assistance provided between the County of Albemarle and the City of Charlottesville.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia hereby approves the Mutual Aid Agreement between the County of Albemarle and the City of Charlottesville and authorizes the County Executive to execute the Agreement on behalf of the County once it is approved as to form and substance by the County Attorney.

**RESOLUTION TO PARTICIPATE IN
VIRGINIA DEPARTMENT OF TRANSPORTATION
REVENUE SHARING PROGRAM FOR FISCAL YEAR 2024**

Commonwealth Drive/Dominion Drive Sidewalks

WHEREAS, the County of Albemarle desires to submit an application for the allocation of funds through the Virginia Department of Transportation Fiscal Year 2024 Revenue Sharing Program; and

WHEREAS, the County is willing to commit local funds of a minimum of fifty percent (50%) of the total project cost in order to compete for a Revenue Sharing Program award; and

WHEREAS, these funds are requested to implement the Commonwealth Drive/Dominion Drive project, which proposes to construct two segments of sidewalk: on Commonwealth Drive from Hydraulic Road to Peyton Drive and on Dominion Drive from Commonwealth Drive to US 29; and

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby commits to provide local funds of a minimum of fifty percent (50%) of the total project cost in its application for revenue sharing funds from the FY 2024 Virginia Department of Transportation Revenue Sharing Program and requests that the Virginia Department of Transportation approve the County's application.

BE IT FURTHER RESOLVED THAT the Board of Supervisors hereby grants authority to the County Executive to execute project administration agreements for any approved Fiscal Year 2024 Revenue Sharing Program projects.

**RESOLUTION TO PARTICIPATE IN
VIRGINIA DEPARTMENT OF TRANSPORTATION
REVENUE SHARING PROGRAM FOR FISCAL YEAR 2024**

Berkmar Drive Bicycle and Pedestrian Improvements

WHEREAS, the County of Albemarle desires to submit an application for the allocation of funds through the Virginia Department of Transportation Fiscal Year 2024 Revenue Sharing Program; and

WHEREAS, the County is willing to commit local funds of a minimum of fifty percent (50%) of the total project cost in order to compete for a Revenue Sharing Program award; and

WHEREAS, these funds are requested to implement the Berkmar Drive Bicycle and Pedestrian Improvements project, which proposes to construct a shared-use path or enhanced sidewalk along Berkmar Drive from Hilton Heights Road to the first intersection south of Woodbrook Drive, to connect to the new Shared-Use Path on Berkmar Drive Extended; and

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby commits to provide local funds of a minimum of fifty percent (50%) of the total project cost in its application for revenue sharing funds from the FY 2024 Virginia Department of Transportation Revenue Sharing Program and requests that the Virginia Department of Transportation approve the County's application.

BE IT FURTHER RESOLVED THAT the Board of Supervisors hereby grants authority to the County Executive to execute project administration agreements for any approved Fiscal Year 2024 Revenue Sharing Program projects.

**RESOLUTION TO PARTICIPATE IN
VIRGINIA DEPARTMENT OF TRANSPORTATION
REVENUE SHARING PROGRAM FOR FISCAL YEAR 2024**

Berkmar Drive Extension to Airport Road

WHEREAS, the County of Albemarle desires to submit an application for the allocation of funds through the Virginia Department of Transportation Fiscal Year 2024 Revenue Sharing Program; and

WHEREAS, the County is willing to commit local funds of a minimum of fifty percent (50%) of the total project cost in order to compete for a Revenue Sharing Program award; and

WHEREAS, these funds are requested to implement the Berkmar Drive Extension to Airport Road project, which proposes to construct a new roadway, including bicycle and pedestrian accommodations, to continue Berkmar Drive to Airport Road, where a roundabout will be constructed to connect to Innovation Drive/Lewis and Clark Drive; and

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby commits to provide local funds of a minimum of fifty percent (50%) of the total project cost in its application for revenue sharing funds from the FY 2024 Virginia Department of Transportation Revenue Sharing Program and requests that the Virginia Department of Transportation approve the County's application.

BE IT FURTHER RESOLVED THAT the Board of Supervisors hereby grants authority to the County Executive to execute project administration agreements for any approved Fiscal Year 2024 Revenue Sharing Program projects.

**RESOLUTION TO REQUEST SPEED STUDY AND TRAFFIC COUNT OF PARK RIDGE DRIVE
BETWEEN EASTERN AVENUE AND RAVEN STONE ROAD**

WHEREAS, concerns have been received from residents along and near Park Ridge Drive in Albemarle County regarding speeding and unsafe conditions for drivers and pedestrians along Park Ridge Drive; and

WHEREAS, the Virginia Department of Transportation (VDOT) offers various programs to address certain traffic problems on local streets, including the Traffic Calming Program; and

WHEREAS, VDOT provides communities with guidance and procedures to implement traffic calming on neighborhood streets, as outlined in the *Traffic Calming Guide for Neighborhood Streets*; and

WHEREAS, the *Traffic Calming Guide for Neighborhood Streets* specifies that a locality must conduct an engineering study that includes a speed study and traffic count; and

WHEREAS, the VDOT District Office is willing to complete an official speed study and traffic count on behalf of Albemarle County, provided this action is requested by a resolution from the Albemarle County Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby requests that VDOT complete a speed study and traffic count of Park Ridge Drive between Eastern Avenue and Raven Stone Road.

RESOLUTION APPROVING A PLAN TO FINANCE CERTAIN PUBLIC FACILITIES PROJECTS THROUGH THE ISSUANCE OF ONE OR MORE SERIES OF REVENUE OBLIGATIONS BY THE ECONOMIC DEVELOPMENT AUTHORITY OF ALBEMARLE COUNTY, VIRGINIA

WHEREAS, the Economic Development Authority of Albemarle County, Virginia (formerly the Industrial Development Authority of Albemarle County, Virginia) (the “Authority”), pursuant to the Industrial Development and Revenue Bond Act (the “Act”), under which it was created, is authorized to exercise all the powers set forth in the Act, which include, among other things, the power to make loans to, among others, a county in furtherance of the purposes of the Act, to finance facilities for use by, among others, a county, to issue its revenue bonds, notes and other obligations from time to time for such purposes and to pledge all or any part of its revenues and receipts derived from payments received by the Authority in connection with its loans or from any source as security for the payment of principal of and premium, if any, and interest on any such obligations;

WHEREAS, the Board of Supervisors (the “County Board”) of Albemarle County, Virginia (the “County”), desires to finance or reimburse, in conjunction with the Authority, (a) the costs of certain projects in the County’s Capital Improvement Plan, including (without limitation) capital expenditures related to the following governmental and public purpose categories: (i) judicial, (ii) parks, recreation and cultural, (iii) public safety, (iv) public works, (v) schools, (vi) transportation and (vii) solid waste; and (b) the costs of acquiring certain real property to be used for any of the following purposes: (i) any public use, including (without limitation) public facilities such as educational facilities and military installations (pursuant to Virginia Code § 15.2-1800), (ii) facility site(s) (pursuant to Virginia Code § 15.2-4917), and (iii) development of business and industry (pursuant to Virginia Code § 15.2-1802) (collectively, the “Series 2023 Projects”);

WHEREAS, the County Board desires that the Authority issue revenue obligations in the form of one or more series of notes or bonds (such obligations collectively referred to herein as the “Bonds”), and use the proceeds thereof to (a) finance or reimburse the costs of the Series 2023 Projects, (b) pay, if and as desired, interest on the Bonds up to one year following completion of the Series 2023 Projects, (c) fund, if and as desired, a reserve fund for the Bonds, and (d) pay the related costs of issuance;

WHEREAS, the Bonds will be secured by payments appropriated from time to time by the County Board and payable to the Authority in accordance with the terms of the Financing Agreement (as defined herein); and

WHEREAS, there have been made available at this meeting preliminary forms of the following documents (collectively, the “Documents”) proposed to be used in connection with the issuance and sale of the Bonds (in one or more series):

(a) Supplemental Agreement of Trust, supplementing the Agreement of Trust dated as of March 1, 2003, as previously supplemented (collectively, the “Trust Agreement”), all between the Authority and U.S. Bank Trust Company, National Association, as successor trustee (the “Trustee”), pursuant to which the Bonds are to be issued and which is to be acknowledged and consented to by the County;

(b) a Supplemental Financing Agreement (the “Supplemental Financing Agreement”), supplementing a Financing Agreement dated as of March 1, 2003, as previously supplemented (collectively, the “Financing Agreement”), all between the Authority and the County, pursuant to which the Authority will loan the proceeds of the Bonds to the County and the County will undertake, subject to appropriation, to make payments to the Authority in amounts sufficient to pay the principal of and premium, if any, and interest on the Bonds and certain other related costs;

(c) a Preliminary Official Statement of the Authority relating to the public offering of the Bonds (the “Preliminary Official Statement”); and

(d) a Continuing Disclosure Agreement (attached as Appendix F to the Preliminary Official Statement), pursuant to which the County agrees to undertake certain continuing disclosure obligations with respect to the Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF ALBEMARLE COUNTY, VIRGINIA:

1. The County Board hereby finds that the undertaking of the Series 2023 Projects and the financing thereof will be in the best interests of the County and its citizens. The County Board hereby

requests that the Authority undertake the following plan to issue the Bonds for such purposes. The Authority will issue the Bonds (in one or more series) and use the proceeds thereof to (a) finance or reimburse the costs of the Series 2023 Projects, (b) pay, if and as desired, interest on the Bonds up to one year following completion of the Series 2023 Projects, (c) fund, if and as desired, a reserve fund for the Bonds, and (d) pay the related costs of issuance. Pursuant to the Financing Agreement, the County will undertake to make certain Basic Payments and Additional Payments (each as defined in the Financing Agreement) to the Authority in amounts sufficient to amortize the Bonds, to pay the fees or expenses of the Authority and the Trustee and to pay certain other related costs. The obligation of the Authority to pay principal of and premium, if any, and interest on the Bonds will be limited to the Basic Payments and Additional Payments received from the County. The Bonds will be secured by an assignment of the Basic Payments and certain Additional Payments due under the Financing Agreement, all for the benefit of the holders of the Bonds. The undertaking by the County to make Basic Payments and Additional Payments will be subject to the appropriation by the County Board from time to time of sufficient amounts for such purposes. The plan to issue the Bonds and to finance the Series 2023 Projects shall contain such additional requirements and provisions as may be approved by the County Executive (the "County Executive," which term as used herein shall also include any Deputy County Executive of the County, the Chief Financial Officer of the County and any person serving in an interim capacity in such roles) and the Chair or Vice-Chair of the Authority.

2. The County Board, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intent to make appropriations in future fiscal years in amounts sufficient to make all payments due under the Financing Agreement and hereby recommends that future County Boards do likewise during the term of the Financing Agreement. The County Board hereby confirms that the facilities and purposes of the Series 2023 Projects are either essential to the efficient operation of the County or important to the welfare or quality of life of County residents, and the County Board anticipates that such facilities and purposes will continue to be so during the term of the Financing Agreement.

3. The Chair of the County Board and the County Executive, either of whom may act, are hereby authorized and directed to execute the Documents to which the County is a signatory, which shall be in substantially the forms made available at this meeting, which forms are hereby approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officer signing such Documents. Such officer's execution and delivery thereof shall constitute conclusive evidence of such officer's approval of any such completions, omissions, insertions and changes.

4. In making completions to each Supplemental Financing Agreement (which may relate to one or more series of Bonds), the County Executive, in collaboration with the Financial Advisor and the Authority, shall provide for Basic Payments and Additional Payments in amounts equivalent to the payments on the Bonds and certain related costs and expenses, which Bonds shall be sold to the purchaser(s) thereof on terms as shall be satisfactory to the County Executive. The County Board consents to the issuance by the Authority of one or more series of Bonds pursuant to the provisions of the Trust Agreement; provided that (a) the aggregate principal amount of all series shall not exceed \$178,000,000, (b) the "true" or "Canadian" interest cost of the Bonds of any series issued on a federally tax-exempt basis shall not exceed 5.5% (taking into account any original issue discount or premium), (c) the "true" or "Canadian" interest cost of the Bonds of any series issued on a federally taxable basis shall not exceed 6.5% (taking into account any original issue discount or premium), (d) the Bonds of any series shall mature or be subject to mandatory sinking fund redemption in installments ending not later than December 31, 2043, (e) the Bonds of any series shall be sold to the purchaser(s) thereof at a price not less than 98% of the aggregate principal amount thereof (without taking into account any original issue discount or premium), (f) the Bonds of any series shall be subject to optional redemption, if at all, at a redemption price not to exceed 102% of their principal amount or at a "make whole" redemption price, and (g) no Bonds may be issued after June 30, 2024, without further approval by the County Board. The County Executive is also authorized to approve, in collaboration with the Chair or Vice-Chair of the Authority, the timing for the issuance of the Bonds of any series, the determination of whether the Bonds of any series are issued on a federally tax-exempt or taxable basis, the aggregate principal amount of each series (subject to the aggregate limit for all Bonds set forth in clause (a)), the maturity schedule (including serial maturities and term maturities for the Bonds) for each series and the redemption provisions for each series, all as the County Executive shall determine to be in the best interests of the County.

5. The County Board hereby approves the following terms of sale for the Bonds of any series:

(a) Each series of Bonds shall be sold through a competitive sale or a negotiated sale, as the County Executive, in collaboration with the Financial Advisor and the Authority, determines to be in the best interests of the County.

(b) If the County Executive determines that a series of Bonds shall be sold by competitive sale, the County Executive is hereby authorized to receive bids for such Bonds and award such Bonds to the bidder providing the lowest "true" or "Canadian" interest cost, subject to the limitations set forth in Section 4. Following a competitive sale, the County Executive shall, in collaboration with the Chair or Vice-Chair of the Authority, file a certificate with the Authority and the County Board setting forth the final terms of such Bonds. The actions of the County Executive, in collaboration with the Chair or Vice-Chair of the Authority, in selling such Bonds by competitive sale shall be conclusive, and no further action with respect to the sale and issuance of such Bonds shall be necessary on the part of the County Board.

(c) If a series of Bonds is sold by competitive sale, the County Executive, in collaboration with the Financial Advisor, is hereby authorized and directed to take all proper steps to advertise such Bonds for sale pursuant to the terms of a notice of sale, the form of which shall be prepared by the Financial Advisor and the County's bond counsel and approved by the County Executive.

(d) If the County Executive determines that a series of Bonds shall be sold by negotiated sale, the County Executive is hereby authorized, in collaboration with the Financial Advisor and the Authority, to choose one or more investment banks or firms to serve as underwriter(s) for such Bonds and to execute and deliver to the underwriter(s) a bond purchase agreement (a "Bond Purchase Agreement") in a form to be approved by the County Executive in consultation with the County Attorney and the County's bond counsel. The execution of a Bond Purchase Agreement by the County Executive shall constitute conclusive evidence of his approval thereof. Following a negotiated sale, the County Executive shall file a copy of the applicable Bond Purchase Agreement with the records of the County Board. The actions of the County Executive in selling such Bonds by negotiated sale to the underwriter(s) shall be conclusive, and no further action with respect to the sale and issuance of such Bonds shall be necessary on the part of the County Board.

6. The Preliminary Official Statement in the form made available at this meeting is approved with respect to the information contained therein (excluding information pertaining to the Authority). The County hereby authorizes distribution of the Preliminary Official Statement to prospective purchasers of the Bonds of any series in a form deemed to be "final" (within the meaning of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule")) as of its date, except for the omission of certain pricing and other information permitted to be omitted pursuant to the Rule and with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the County Executive. Such distribution shall constitute conclusive evidence that the County has deemed the Preliminary Official Statement to be "final" (within the meaning of the Rule) as of its date.

7. The County Executive is hereby authorized and directed to approve such completions, omissions, insertions and other changes to the Preliminary Official Statement that are necessary to reflect the terms of sale of the particular series of Bonds, determined as set forth in Section 4, and the details thereof and that are appropriate to complete it as an official statement in final form (the "Official Statement"), and distribution thereof to the purchaser(s) of such Bonds shall constitute conclusive evidence that the County has deemed the Official Statement "final" (within the meaning of the Rule) as of its date.

8. The County covenants that it shall not take or omit to take any action the taking or omission of which shall cause any series of Bonds issued on a federally tax-exempt basis to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and regulations thereunder, or otherwise cause interest on such Bonds to be includable in the gross income for federal income tax purposes of the holders thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of existing law that may require the County at any time to rebate to the United States of America any part of the earnings derived from the investment of the gross proceeds of such Bonds. The County shall pay from its legally available general funds any amount required to be rebated to the United States of America pursuant to the Code.

9. The County covenants that during the term of the Financing Agreement it shall not permit the proceeds of any series of Bonds issued on a federally tax-exempt basis or the facilities financed therewith to be used in any manner that would result in (a) 10% or more of such proceeds or facilities being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the County's use of such facilities, (b) 5% or more of such proceeds or facilities being used with respect to any "output facility" (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on such Bonds from being includable in the gross income for federal income tax purposes of the holders thereof under existing law, the County need not comply with such covenants.

10. Such officers of the County as may be requested by bond counsel for the County are authorized and directed to execute an appropriate certificate setting forth (a) the expected use and investment of the proceeds of the Financing Agreement (derived from any Bonds issued on a federally tax-exempt basis) in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code and (b) any elections such officers deem desirable regarding rebate of earnings to the United States for purposes of complying with Section 148 of the Code. Such certificate shall be prepared in consultation with bond counsel for the County, and such elections shall be made after consultation with bond counsel.

11. All costs and expenses incurred in connection with the issuance of each series of Bonds and the financing of the Series 2023 Projects, including the Authority's fees and expenses and the related fees and expenses of bond counsel, counsel for the Authority, and the Financial Advisor, shall be paid from the proceeds of the particular series of Bonds or other legally available funds of the County. If for any reason any series of Bonds is not issued, it is understood that all such fees and expenses incurred in connection with such series of Bonds shall be paid by the County from its legally available funds and that the Authority shall have no responsibility therefor.

12. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and, if applicable, to record such document where appropriate.

13. All other acts of the County Executive and other officers of the County that are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of each series of Bonds and the financing of the Series 2023 Projects are hereby authorized, approved and ratified.

14. This Resolution shall take effect immediately.

**RESOLUTION TO APPROVE
ADDITIONAL FY 2024 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 24 Budget is amended to increase it by \$81,067,665;
- 2) That Appropriations #2024007; #2024008; #2024009; and #2024010 are approved;
- 3) That the appropriations referenced in Paragraph #2, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2024.

**ORDINANCE NO. 23-A(6)
ZMA 2023-00003
AN ORDINANCE TO AMEND THE ZONING MAP FOR
PARCEL 03200-00-00-029D0**

WHEREAS, an application was submitted to rezone 0.32 acres on Parcels 03200-00-00-029D0 from R-1 Residential to R-4 Residential; and

WHEREAS, on July 11, 2023, after a duly noticed public hearing, the Planning Commission recommended approval of ZMA 2023-00003;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2023-00003 and their attachments, including the application materials last revised July 7, 2023, the information presented at the public hearings, any written comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code § 18-15.1, and for the purposes of public necessity, convenience, general welfare, and good zoning practices, the Board hereby approves ZMA 2023-00003 as to the subject land on Parcel 03200-00-00-029D0.

* * *

**RESOLUTION TO REQUEST THE COMMONWEALTH TRANSPORTATION BOARD
RESTRICT THROUGH TRUCK TRAFFIC ON PLANK ROAD**

WHEREAS, Virginia Code § 46.2-809 provides that a locality may formally request that the Commonwealth Transportation Board ("CTB") or its designee restrict through trucks on certain segments of primary and secondary routes in the limited number of cases where doing so would promote the health, safety and welfare of the public without creating an undue hardship on any transportation users; and

WHEREAS, requests have been received by residents along and near Plank Road in Albemarle County for an evaluation of possible Through-Truck Restrictions on the road; and

WHEREAS, Plank Road meets the requirements for a Through Truck Restriction as set forth in the policy adopted by the CTB on October 16, 2003, "Guidelines for Considering Requests to Restrict Through Trucks on Primary and Secondary Highways"; and

WHEREAS, the proposed through truck restriction would restrict Plank Road (Rte. 692) between its intersections with US 29 and Rockfish Gap Turnpike (US 250); and

WHEREAS, I-64 and Monacan Trail Road (US 29) together provide a reasonable alternative to trucks now traveling along Plank Road between I-64 and US 29; and

WHEREAS, this restriction would apply to any truck or truck and trailer or semi-trailer combination, except for pickup or panel trucks

NOW, THEREFORE BE IT RESOLVED that the Albemarle County Board of Supervisors, after holding a public hearing on September 6, 2023, hereby requests that the Commonwealth Transportation Board restrict through truck traffic on Plank Road between US 29 and US 250.

BE IT FURTHER RESOLVED that the Albemarle County Board of Supervisors does support this request and states its intent that it will use its good offices for enforcement of the proposed restriction by the Albemarle County Police Department and any other appropriate law enforcement agency.

