

ACTIONS
Board of Supervisors Meeting of February 19, 2020

February 20, 2020

AGENDA ITEM/ACTION	ASSIGNMENT	VIDEO
<p>1. Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 1:10 p.m., by the Chair, Mr. Gallaway. All BOS members were present. Also present were Jeff Richardson, Greg Kamptner, Claudette Borgersen and Travis Morris. 		Link to Video
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> Liz Palmer requested the order of the agenda be amended to cover items From the Board: Committee Reports and Matters Not Listed on the Agenda, as well as From the County Executive: Report on Matters Not Listed on the Agenda before the closed meeting, By a vote of 6:0, ADOPTED the final agenda as amended. 		
<p>5. Brief Announcements by Board Members.</p> <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> Observed how fragile the planet is and commented that she was very pleased that the County and Board are focused on taking actions to help protect the environment. <p><u>Liz Palmer:</u></p> <ul style="list-style-type: none"> Announced that that the County is now composting pizza boxes at McIntire Recycling Center. <p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> Commented on an email about litter that the Board received and said that it would behoove the Board to have a serious discussion about the litter in the community and how they might be able to have an impact. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Remarked that the litter problem is something that is very high on the complaint level for citizens all over the County, adding that litter draws predator wildlife to the road, who then get killed, resulting in a downward spiral. Acknowledged the staff members working on the Crozet Master Plan who have designed a new plan of approach compared to 10 years earlier, which was successful and well-received at the community meeting the week before. Mentioned that the previous Thursday, she was fortunate to attend a strategic planning wrap-up for the Thomas Jefferson Soil and Water Conservation District and commented that the USDA Farm Service Agency has an office in Louisa, and they are ready to help with agricultural cost-sharing programs. <p><u>Ned Gallaway:</u></p> <ul style="list-style-type: none"> Remarked that at noon that day, the Board received the County Executive's budget recommendation which would be shared online along with the calendar of all the Board's budget work sessions. Announced that the inmate crews who are out cleaning litter should be coming to Earlysville Road in the coming weekend or two and called to action organizations who might be looking to that area for an Adopt a Highway program. 		

<p>6. Proclamations and Recognitions. a. By a vote of 6:0, ADOPTED proclamation Recognizing March 3rd as Liberation Day.</p>	(Attachment 1)	
<p>7. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> • The following individuals spoke towards the proposed rezoning of 999 Rio Road. <ul style="list-style-type: none"> ○ <u>Mr. Kent Schlusel</u> ○ <u>Ms. Judy Schlusel</u> • <u>Dr. Charles Battig</u>, Scottsville District, spoke towards climate change and fictitious carbon footprints and noted that the Board has identified a litter problem that requires instilling a sense of personal responsibility throughout the school system and adults. • <u>Mr. Tom Eckman</u>, Rivanna District and member of IMPACT, said he attended the budget meeting earlier that day and that the County needs to get serious about creating more low-income housing by creating an affordable housing trust fund. • <u>Mr. Neil Williamson</u>, Free Enterprise Forum, commented that the idea of development in the Development Area is something that needs to be embraced and encouraged the Board to consider how they choose to develop in the Development Area. 		
<p>8.2 Revised Charge for the Solid Waste Alternatives Advisory Committee.</p> <ul style="list-style-type: none"> • APPROVED the revisions to the SWAAC charge to allow up to 12 voting members and refine the scope. 	<p><u>Staff:</u> Proceed as authorized. (Attachment 2)</p>	
<p>8.3 Authorization to Schedule Public Hearing for Ordinance to Amend County Code Chapter 9, Motor Vehicles.</p> <ul style="list-style-type: none"> • AUTHORIZED scheduling a public hearing on the March 18, 2020 agenda to consider the adoption of the attached proposed ordinance. 	<p><u>Clerk:</u> Schedule on agenda and advertise in Daily Progress.</p>	
<p>8.4 Virginia Department of Agriculture and Consumer Services Grant for Easement Acquisition.</p> <ul style="list-style-type: none"> • ADOPTED the Resolution to Approve the FY 20 Agreement between The County of Albemarle and the Commonwealth of Virginia Department of Agriculture and Consumer Services. 	<p><u>Clerk:</u> Forward copy of signed ordinance to Community Development and County Attorney's office. (Attachment 3)</p>	
<p>8.5 Resolution to accept road(s) in the Hollymead Towncenter Abington Place Subdivision into the State Secondary System of Highways.</p> <ul style="list-style-type: none"> • ADOPTED resolution. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 4)</p>	
<p>8.6 Resolution to accept road(s) in the Dunlora V Subdivision into the State Secondary System of Highways.</p> <ul style="list-style-type: none"> • ADOPTED resolution. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 5)</p>	
<p>9. HS201900019 Homestay Special Exception (200 Ipswich Place).</p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED the resolution to approve the special exception with the conditions contained therein. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 6)</p>	
<p>10. Proposed Lease of Space for the Office of Voter Registration and Elections.</p> <ul style="list-style-type: none"> • By a vote of 6:0, APPROVED the proposed lease of the space for the Office of Voter Registration and Elections. 	<p><u>Clerk:</u> Forward copy of signed resolution to Facilities and Environmental Services and County Attorney's office. (Attachment 7)</p>	
<p>17. From the Board: Committee Reports and Matters</p>		

<p>Not Listed on the Agenda.</p> <p><u>Liz Palmer:</u></p> <ul style="list-style-type: none"> • Announced that the City has contracted with a consultant to do a study on all their waste management services and that Lance Stewart has been asked to sit in on some of their discussions. She mentioned that the littering issue could be something the consultant could look at. • Mentioned that some residents in the County have thought that some of the littering issue is associated with the fact that unlike many other counties, Albemarle County does not have any drop-off areas. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> • Reiterated she would like to receive the update of the 2008 climate baseline. 		
<p>18. From the County Executive: Report on Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> • There were none. 		
<p>11. Closed Meeting.</p> <ul style="list-style-type: none"> • At 2:39 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia: • Under Subsection (5), to discuss the expansion of an existing industry in the northern part of the County where no previous announcement has been made of the industry's interest in expanding its facilities in the community; and • Under Subsection (7), to consult with legal counsel and briefings by staff members pertaining to: <ol style="list-style-type: none"> 1. Actual litigation between the Board of Supervisors and the Scottsville Volunteer Rescue Squad; and 2. Probable litigation related to the compensation of a group of County employees; and • Under Subsection (8), to consult with and be briefed by legal counsel regarding specific legal matters requiring legal advice relating to the public's access to and use of the County Office Buildings and their grounds located on McIntire Road and 5th Street. 		
<p>12. Certify Closed Meeting.</p> <p>At 6:00 p.m. the Board reconvened into open meeting and certified the closed meeting.</p>		
<p>13. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> • <u>Ms. Suzanne Smith</u>, Jack Jouett District and representing IMPACT, spoke about the new housing policy and spoke in support of the creation of an affordable housing fund, which is she noted as an accepted best practice around the country. • <u>Ms. Vikki Bravo</u>, IMPACT, said that IMPACT was pleased to see the proposed new housing policy, and that the second priority is an affordable housing fund. • Mr. Martin Meth, Rio District and Chair of the Places29 (Rio) CAC, provided to the Board with a copy of a resolution approved by the committee addressing a proposed Zoning Map Amendment called Parkway Place signaling opposition to this proposed amendment. 		

14.	<p><u>Ordinance to Amend County Code Chapter 4, Animals (Leash Laws).</u></p> <ul style="list-style-type: none"> By a vote of 6:0, ADOPTED the ordinance to amend County Code Chapter 4, Animals, to revise the running at large provisions. 	<p><u>Clerk:</u> Forward signed copy of ordinance to the Albemarle County Police Department and to the County Attorney' office. (Attachment 8)</p>	
15.	<p><u>ZMA201900007 Hyland Park.</u></p> <ul style="list-style-type: none"> By a vote of 6:0, APPROVED ZMA201900007 Hyland Park. 	<p><u>Clerk:</u> Forward copy of signed copy of ordinance to Community Development and County Attorney's office. (Attachment 9)</p>	
16	<p><u>SP201900008 – The Miller School of Albemarle.</u> By a vote of 6:0, DEFERRED to a later date at the applicant's request.</p>	<p><u>Clerk:</u> Schedule on agenda when ready.</p>	
19.	<p>Adjourn to February 25, 2020, 5:00 p.m., Room 241.</p> <ul style="list-style-type: none"> The meeting was adjourned at 8:33 p.m. 		

ckb/tom

- Attachment 1 – Proclamation Recognizing March 3rd as Liberation Day
- Attachment 2 – County of Albemarle Solid Waste Alternatives Advisory Committee Revised (2020) Charge Statement, Goals, Membership and Organization
- Attachment 3 – Resolution to Approve the FY 20 Agreement between the County of Albemarle and the Commonwealth of Virginia Department of Agriculture and Consumer Services
- Attachment 4 – Resolution to Accept Road(S) In the Hollymead Towncenter Abington Place Subdivision into The State Secondary System of Highways
- Attachment 5 – Resolution to Accept Road(S) In the Dunlora V Subdivision into The State Secondary System of Highways
- Attachment 6 – Resolution to Approve Special Exception for HS2019-00019 200 Ipswich Place
- Attachment 7 – Resolution to Approve a Lease For 206-216 Albemarle Square
- Attachment 8 – Ordinance No. 20-4(2)
- Attachment 9 – Ordinance No. 20-A(3) ZMA 2019-00007



**PROCLAMATION
RECOGNIZING MARCH 3RD AS LIBERATION DAY**

WHEREAS, the County of Albemarle, in keeping with the core principles of our great United States of America, believes that all persons are created equal and possess unalienable rights to life, liberty, and the pursuit of happiness; and

WHEREAS, on the twenty-second day of September, in the year 1862, a proclamation was issued by the President of the United States, containing, among other things, an emancipating declaration that: on the first day of January, in the year 1863, all persons held as slaves shall be then, thenceforward, and forever free; and

WHEREAS, on the third day of March, in the year 1865, the liberation of the estimated 14,000 enslaved persons in the Charlottesville/Albemarle area was enforced; and

WHEREAS, the Board of Supervisors recognizes the enduring cultural and historical significance of emancipation, acknowledges the universally cherished values of liberty and justice, and emphasizes our common humanity.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors do hereby recognize March 3, 2020 as Liberation Day.

Signed this 19th day of February, 2020

*Ned Gallaway, Chair
Albemarle Board of County Supervisors*



County of Albemarle
Solid Waste Alternatives Advisory Committee
 Revised (2020) Charge Statement, Goals, Membership and
 Organization

Introduction

On October 7, 2015, the Albemarle County Long Range Solid Waste Solutions Advisory Committee – a temporary body appointed by the Board of Supervisors (Board) to identify best practices for the management of solid waste in Albemarle County – submitted its final report to the Board. The report included a recommendation for the creation of a standing committee to advise the Board and a dedicated staff person to support the committee’s work.

On March 9, 2016, the Board established the Solid Waste Alternatives Advisory Committee (Committee) and approved an initial charge statement. This revised charge reflects current thinking by Board representatives and County staff on expectations of the Committee and available County resources based on the committee’s first year in service

Charge

The Albemarle County Solid Waste Alternatives Advisory Committee (SWAAC) is a standing advisory committee to the Albemarle County Board of Supervisors. The establishment of this Committee is consistent with the County’s Comprehensive Plan, the organizational vision of Albemarle County, and the Regional Solid Waste Management Plan facilitated by the Thomas Jefferson Planning District Commission. The Committee will provide general information to the Board in a semi-annual update, including a summary of sustainable materials management (SMM) issues being considered by the Committee and a rolling, six-month work plan. The Committee can provide review and input on actions proposed by the County that contain a solid waste/ SMM component, will submit specific policy recommendations to the Board as they are developed, and will support recommendations with thorough budgetary and relevant impact analyses of the recommended policy implementation. Policy development will focus on longer range planning that considers the role of climate change actions, including greenhouse gas reductions; public education strategies for SMM activities that are current or are planned for future implementation; equitable access to SMM services in the County; evaluation of regional opportunities for programs; and recommending metrics for use in evaluating and validating the effectiveness of SMM activities and programs.

Topics for consideration by the Committee shall include:

- public education and outreach
- materials reuse
- waste disposal
- waste and litter reduction
- recycling and composting

- greenhouse gas reduction
- Ivy MUC waste collection and transfer operations (master planning and recycling plan)
- compliance with state reporting requirements
- information needs to support long term planning and climate action plan

The Committee will also provide input on the job description for a Sustainable Materials Management Coordinator position and a recommendation on the timing of funding. This evaluation will include input on whether the position will serve the County best by being located at the Rivanna Solid Waste Authority (RSWA) or within the Facilities and Environmental Services Department.

Membership

The Committee will consist of up to 12 voting members appointed by the Board of Supervisors with appropriate background, experience, and interest. Appointments will be based on Board and staff recommendations, nominations from community and business groups, and individual applications. Members will be added to this Committee through the normal Board appointment process.

Length of Term: Initial appointments will include two four-year appointments, two three-year appointments, and two two-year appointments. Thereafter, appointments will be for four-year terms with a maximum duration of service limited to eight years.

The voting members of the Committee shall include the following who are interested in furthering sustainable materials management in Albemarle County and the region:

- one or more - Professional Engineer
- one or more - technical expert in any solid waste management-related field
- one or more - representative with public policy interest/experience
- two to four - Albemarle County resident(s)
- two to four - local business community members

The Board shall appoint two members of the Board of Supervisors to serve as liaisons to the Committee; one shall be the Board member serving on the RSWA Board of Directors. In addition, the Committee shall invite appropriate staff from the RSWA, the City of Charlottesville.

Facilities and Environmental Services (FES) staff will support the Committee. The Environmental Compliance Manager will serve as primary support, with the Chief of Environmental Services and the Director of FES contributing, as needed. Support may include:

- managing the membership appointment process
- reserving meeting rooms and securing any necessary equipment (projector, phone)
- developing and maintaining a website specific to the Committee to facilitate information- sharing and to document Committee agendas, decisions, and recommendations
- working with officers to develop and revise work plans and set meeting agendas
- as time and resources are available, researching issues, preparing materials, and communicating with others to inform Committee discussions and implement Board-approved recommendations

Committee Organization

The Committee shall elect a Chair, Vice-chair, and Secretary for one-year tenures. Meetings will be held approximately once per month or as otherwise agreed to by the Committee, with the date and time of the meetings kept relatively constant. Additional meetings may be called by the Chair. All SWAAC Committee meeting dates and times will be publicized. All meetings will be open work sessions, where the general public is invited to attend to listen and observe only, unless public participation is deemed appropriate by the Chair.

No quorum shall be necessary to discuss business that is before the Committee, but no vote or action will be taken unless a quorum is present. A majority of the voting members of the Committee shall constitute a quorum. Decisions shall be made, if possible, by an indication of general consensus among the Committee members present. Staff will not participate as decision makers. When this method does not serve to establish a clear direction, the Chair shall call for a roll-call vote. When an agreement cannot be achieved on an issue, business shall proceed and the Secretary shall document and present minority positions for the Board of Supervisors' consideration. Facilitation will be provided in those instances when it is considered beneficial in helping the Committee achieve its stated purposes.

**RESOLUTION TO APPROVE THE FY 20 AGREEMENT
BETWEEN THE COUNTY OF ALBEMARLE AND
THE COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

WHEREAS, the Board finds it is in the best interest of the County to enter into an Agreement with the Commonwealth of Virginia Department of Agriculture and Consumer Services as a condition of receiving a FY 20 grant award for the preservation of working farms and forest lands through the ACE Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia hereby approves the FY 20 Agreement between the County of Albemarle and the Commonwealth of Virginia Department of Agriculture and Consumer Services, and authorizes the County Executive to execute the FY 20 Agreement on behalf of the County after approval as to form and substance by the County Attorney.

INTERGOVERNMENTAL AGREEMENT
Between
Virginia Department of Agriculture and Consumer Services
and
Albemarle County

This INTERGOVERNMENTAL AGREEMENT is entered into this 31st day of December, 2019, in the City of Richmond, Virginia, between the Virginia Department of Agriculture and Consumer Services (“VDACS”) and Albemarle County (collectively, “the Parties”) to provide mutually advantageous terms for cooperation between VDACS and Albemarle County to implement VDACS’ contribution of funds in support of Albemarle County’s purchase of agricultural conservation easements.

WHEREAS, the General Assembly, by Chapter 854 of the 2019 Acts of Assembly, appropriated \$250,000.00 in the fiscal year ending June 30, 2020, to VDACS for the continuation of a state fund to match local government purchase of development rights program funds for the preservation of working farms and forest lands; and,

WHEREAS, § 3.2-201 of the Code of Virginia authorizes VDACS’ Office of Farmland Preservation to develop methods and sources of revenue for allocating funds to localities to purchase agricultural conservation easements, and to distribute these funds to localities under policies, procedures, and guidelines developed by VDACS’ Office of Farmland Preservation; and,

WHEREAS, for all purposes of this INTERGOVERNMENTAL AGREEMENT, the term “agricultural conservation easement” shall mean a negative easement in gross that has the primary conservation purpose of preserving working farm and/or forest land; and,

WHEREAS, the Albemarle County Board of Supervisors has enacted an ordinance or passed a resolution that: authorizes, in accordance with Title 10.1, Chapter 17 of the Code of Virginia (“the Open-Space Land Act”) and other applicable law, Albemarle County to purchase agricultural conservation easements from landowners (each hereinafter called “Grantor”); sets forth a clear, consistent, and equitable administrative process governing such purchases; and outlines the goals and purposes of Albemarle County’s farmland preservation program; and,

WHEREAS, Albemarle County has agreed to maintain a public outreach program designed to educate various stakeholders in Albemarle County—including farmers, landowners, public officials, and the non-farming public—about Albemarle County’s initiatives to preserve working farms and forest lands; and,

WHEREAS, Albemarle County has agreed to establish a transparent and replicable process for valuation of agricultural conservation easements; and,

WHEREAS, the purchase of agricultural conservation easements is one component of Albemarle County’s broader farmland preservation program; and,

WHEREAS, Albemarle County has agreed to use a deed of easement that is sufficiently flexible to allow for future agricultural production in purchases of agricultural conservation easements for which Albemarle County uses funds contributed to it by VDACS; and,

WHEREAS, Albemarle County has agreed that any agricultural conservation easement purchased as per the terms of this INTERGOVERNMENTAL AGREEMENT shall meet the definition of “real estate devoted to agricultural use”, “real estate devoted to horticultural use” or “real estate devoted to forest use” as established in § 58.1-3230 of the Code of Virginia; and,

WHEREAS, Albemarle County has agreed to establish a clear strategy for monitoring and enforcing the terms of the agricultural conservation easements that Albemarle County purchases; and,

WHEREAS, Albemarle County has agreed to establish a process that Albemarle County will use to evaluate the effectiveness of its farmland preservation program, including a protocol for making changes to Albemarle County's agricultural conservation efforts based on such evaluations; and,

WHEREAS, VDACS, in reliance on the veracity of the foregoing recitals, certifies Albemarle County is eligible to receive contributions of funds from VDACS in reimbursement for certain costs Albemarle County actually incurs in the course of purchasing agricultural conservation easements; and,

WHEREAS, Albemarle County, and the agents and employees of Albemarle County, in the performance of this INTERGOVERNMENTAL AGREEMENT, are acting on behalf of Albemarle County, and not as officers or employees or agents of the Commonwealth of Virginia;

NOW, THEREFORE, VDACS and Albemarle County agree their respective responsibilities, pursuant to this INTERGOVERNMENTAL AGREEMENT, shall be defined as follows:

1. VDACS Responsibilities

- a. VDACS shall, within thirty (30) days of the date of execution of this INTERGOVERNMENTAL AGREEMENT, restrict \$58,333.00 (hereinafter "the Allocation Amount") in an account, from which VDACS shall withdraw funds only to pay contributions of funds that Albemarle County is eligible to receive pursuant to this INTERGOVERNMENTAL AGREEMENT, except that upon the expiration of two (2) years from the date of this INTERGOVERNMENTAL AGREEMENT, or immediately upon Albemarle County's failure to perform any of its obligations under the terms of this INTERGOVERNMENTAL AGREEMENT, VDACS shall have the right to withdraw any funds then remaining in such account and the right to redirect those funds to other localities that VDACS certifies as being eligible to receive matching funds and that enter into an intergovernmental agreement with VDACS to govern the distribution of matching funds for the purchase of agricultural conservation easements. The allocation amount from this and any prior INTERGOVERNMENTAL AGREEMENT shall not be considered to be a grant as that term is used in paragraph 1(b) of this INTERGOVERNMENTAL AGREEMENT.
- b. Upon Albemarle County or any agent acting on behalf of Albemarle County's recordation of a deed evidencing Albemarle County's purchase of an agricultural conservation easement in the circuit court of the city or county where the Grantor's land is located and Albemarle County's submission to VDACS of a completed claim for reimbursement, on a form prescribed by VDACS, together with the supporting documentation required under paragraph 2(e) of this INTERGOVERNMENTAL AGREEMENT, VDACS shall reimburse Albemarle County fifty percent (50%) of the reimbursable costs that Albemarle County actually incurred in the course of purchasing that agricultural conservation easement, limited to that portion of the allocation amount remaining in the account maintained by VDACS pursuant to paragraph 1(a) of this INTERGOVERNMENTAL AGREEMENT. The following shall not be considered to be reimbursable costs that Albemarle County actually incurred and shall be subtracted from the total amount of reimbursable costs considered for reimbursement by VDACS in connection with any particular agricultural conservation easement transaction: grants made by the United States of America, the Virginia Department of Agriculture and Consumer Services (VDACS), the Virginia Department of Conservation and Recreation (DCR), the Virginia Outdoors Foundation (VOF), or any other governmental agency or political subdivision of the Commonwealth of Virginia; payments made by any other funding sources

either directly to the landowner or to reimburse Albemarle County; or in-kind donations or contributions. VDACS may make alternative arrangements for the distribution of funds pursuant to this INTERGOVERNMENTAL AGREEMENT, provided Albemarle County presents a written request for such alternative arrangement to the Commissioner of VDACS or the Commissioner of VDACS's designated agent (referred collectively hereinafter as "the Grant Manager") prior to incurring any expense for which Albemarle County seeks a distribution of funds under the proposed alternative arrangement.

For purposes of this INTERGOVERNMENTAL AGREEMENT, "reimbursable costs" include:

1. The purchase price of the agricultural conservation easement actually incurred by Albemarle County, at present value, including any portion that Albemarle County will pay over time pursuant to an installment purchase agreement;
 2. The cost of title insurance actually incurred by Albemarle County;
 3. The cost actually incurred by Albemarle County of any appraisal of the land by a licensed real estate appraiser upon which Albemarle County purchases an agricultural conservation easement;
 4. The cost actually incurred by Albemarle County of any survey of the physical boundaries of the land by a licensed land surveyor upon which Albemarle County purchases an agricultural conservation easement, including the cost of producing a baseline report of the conditions existing on the land at the time of the conveyance of the agricultural conservation easement;
 5. Reasonable attorney fees actually incurred by Albemarle County associated with the purchase of an agricultural conservation easement, where reasonable attorney fees include those fees associated with outside counsel required for the completion of the easement, but do not include fees related to county or city attorneys serving as staff and who are paid regular salary in the county's or city's employ;
 6. The cost actually incurred by Albemarle County of issuing public hearing notices associated with Albemarle County's purchase of an agricultural conservation easement that Albemarle County is required by law to issue; and
 7. Any recordation fees actually incurred by Albemarle County that Albemarle County is required to pay pursuant to the laws of the Commonwealth of Virginia.
- c. VDACS shall only be responsible for reimbursing Albemarle County under paragraph 1(b) of this INTERGOVERNMENTAL AGREEMENT for reimbursable costs that Albemarle County actually incurs in the course of purchasing an agricultural conservation easement when Albemarle County or any agent acting on behalf of Albemarle County acquires, by such purchase, a deed of easement that, at a minimum, provides:
1. The primary conservation purpose of the easement conveyed by the deed of easement is the conservation of the land in perpetuity for working farm and/or forestal uses.
 2. The Grantor and Albemarle County agree that the land subject to the agricultural conservation easement shall not be converted or diverted, as the Open-Space Land Act employs those terms, until and unless the Grant Manager, with the concurrence of Albemarle County or an assignee of Albemarle County's interest in the agricultural

conservation easement, certifies that such conversion or diversion satisfies the requirements of the Open-Space Land Act.

3. The Grantor and Albemarle County agree that, in the event of an extinguishment of the restrictions of the agricultural conservation easement that results in the receipt of monetary proceeds by Albemarle County or an assignee of Albemarle County's interest in an agricultural conservation easement in compensation for the loss of such property interest, VDACS shall be entitled to a share of those proceeds proportional to VDACS' contribution toward the total reimbursable cost of acquiring the agricultural conservation easement as evidenced by the completed claim for reimbursement required under paragraph 1(b) of this INTERGOVERNMENTAL AGREEMENT.
4. If the Grantor conveys the agricultural conservation easement for less than its fair market value, the Grantor and Albemarle County mutually acknowledge that approval of the terms of this Deed of Easement by VDACS and/or its legal counsel does not constitute a warranty or other representation as to the Grantor's qualification for any exemption, deduction, or credit against the Grantor's liability for the payment of any taxes under any provision of federal or state law.
5. All mortgagors and other holders of liens on the property subject to the restrictions contained in the deed of easement have subordinated their respective liens to the restrictions of the deed of easement acquired by Albemarle County. All such mortgagors and other holders of liens shall manifest their assent to the easement's priority over their respective liens by endorsing the deed of easement.
6. A baseline report documenting the conditions existing on the land at the time of the conveyance of the agricultural conservation easement is incorporated into the deed of easement by reference.

2. Albemarle County Responsibilities

- a. Albemarle County shall, within thirty (30) days of the date of execution of this INTERGOVERNMENTAL AGREEMENT, have available local funds greater than or equal to the allocation amount for the purpose of purchasing agricultural conservation easements.
- b. Albemarle County shall use matching funds that VDACS contributes to Albemarle County, pursuant to this INTERGOVERNMENTAL AGREEMENT, only for the purpose of purchasing agricultural conservation easements that are perpetual and that have the primary conservation purpose of preserving working farm and/or forest lands.
- c. Within one (1) year from the date of this INTERGOVERNMENTAL AGREEMENT, and for each subsequent year in which the INTERGOVERNMENTAL AGREEMENT or a subsequent agreement is in force, Albemarle County shall submit to VDACS a progress report that:
 1. describes any properties that Albemarle County has identified as prospects for Albemarle County's purchase of agricultural conservation easements and the status of any negotiations for the purchase of such agricultural conservation easements;
 2. estimates the timeframes within which Albemarle County will execute contracts for any such purchases, close on such purchases, and request reimbursement of reimbursable costs for those purchases from VDACS;

3. describes the measures Albemarle County has undertaken to develop and/or maintain a public outreach program designed to educate various stakeholders in Albemarle County's community—including farmers, landowners, public officials, and the non-farming public—about Albemarle County's agricultural conservation easement program and other initiatives to preserve working agricultural land;
 4. describes the measures Albemarle County has undertaken to develop and/or maintain a formal plan for stewardship and monitoring of the working agricultural land on which Albemarle County acquires agricultural conservation easements; and
 5. describes the measures Albemarle County has undertaken to develop and/or maintain a process that Albemarle County will use to evaluate the effectiveness of its program, including a protocol for making changes to Albemarle County's agricultural conservation efforts based on such evaluations.
- d. For any purchase of agricultural conservation easements for which Albemarle County requests reimbursement from VDACS pursuant to this INTERGOVERNMENTAL AGREEMENT, Albemarle County shall obtain a policy of title insurance on its purchased interest that covers at least an amount equal to the amount for which Albemarle County requests reimbursement from VDACS.
- e. Prior to closing on a purchase of an agricultural conservation easement for which Albemarle County requests reimbursement from VDACS pursuant to this INTERGOVERNMENTAL AGREEMENT, Albemarle County shall submit, for review and approval by VDACS and its legal counsel, the following documentation:
1. a written agreement setting forth, in the manner prescribed by Albemarle County's ordinance or resolution governing its program to acquire agricultural conservation easements, the terms of Albemarle County's purchase of the agricultural conservation easement, including the purchase price;
 2. a written confirmation from the Albemarle County Commissioner of Revenue or Director of Finance, or the Albemarle County Commissioner of Revenue's or Director of Finance's designated agent that the property/properties to be encumbered by the agricultural conservation easement meet the definition of "real estate devoted to agricultural use", "real estate devoted to horticultural use" or "real estate devoted to forest use" as established in § 58.1-3230 of the Code of Virginia;
 3. a written description of the agricultural, environmental and social characteristics of the property/properties to be encumbered by the agricultural conservation easement;
 4. any installment purchase agreement;
 5. the deed of easement that the Grantor will deliver to Albemarle County at closing, including all exhibits, attachments, and/or addenda;
 6. a title insurance commitment for a policy to insure the easement interest under contract indicating an amount of coverage at least equal to the amount of funds for which Albemarle County requests reimbursement from VDACS; and

7. an itemized list of all reimbursable costs that Albemarle County has or will, up to the time of closing, incur in the course of purchasing the agricultural conservation easement.

Albemarle County shall make whatever changes to the proposed deed of easement and/or the installment purchase agreement, where applicable, that VDACS and/or its legal counsel deem necessary to ensure compliance with applicable state law and the requirements and purposes of this INTERGOVERNMENTAL AGREEMENT. If Albemarle County closes on any purchases of easement prior to the review and acceptance of VDACS or its legal counsel, VDACS may withhold part or all of the allotment amount until VDACS approves of the deed of easement.

Albemarle County may fulfill its obligation under this paragraph by submitting accurate and complete copies of all documents enumerated in this paragraph, provided that Albemarle County shall deliver or make available the original documents to VDACS for review at VDACS' request.

- f. Together with any claim for reimbursement pursuant to this INTERGOVERNMENTAL AGREEMENT that Albemarle County submits to VDACS, Albemarle County shall also submit the following supporting documentation:
 1. a copy of the recorded deed of easement that VDACS and/or its legal counsel approved prior to closing, showing the locality, deed book, and page of recordation, and including all exhibits, attachments, and/or addenda;
 2. copies of invoices, bills of sale, and cancelled checks evidencing Albemarle County's incursion of reimbursable costs in the course of purchasing the agricultural conservation easement;
 3. a copy of any executed installment purchase agreement related to the purchase, which shall indicate the purchase price; and
 4. a copy of any deed of trust related to the purchase.
- g. Albemarle County shall provide the Grant Manager immediate written notice of Albemarle County's receipt of any application or proposal for the conversion or diversion of the use of any land upon which Albemarle County or its assignee, where applicable, holds an agricultural conservation easement, for the purchase of which VDACS contributed funds pursuant to this INTERGOVERNMENTAL AGREEMENT.
- h. Albemarle County, or any assignee of Albemarle County's interest in an agricultural conservation easement for which Albemarle County receives a contribution from VDACS pursuant to this INTERGOVERNMENTAL AGREEMENT shall at all times enforce the terms of that easement. Albemarle County shall provide the Grant Manager immediate written notice of any actions, whether at law, in equity, or otherwise, taken by locality to enforce the terms of the easement or to abate, prevent, or enjoin any violation thereof by any Party. Any failure by Albemarle County or such assignee to perform its enforcement responsibility shall constitute a breach of this INTERGOVERNMENTAL AGREEMENT, for which VDACS shall have a remedy by way of a civil action for specific performance of that enforcement responsibility; or, VDACS shall have the right and authority, at its option, to demand and receive from Albemarle County a portion of the full market value of the agricultural conservation easement at the time of the breach in proportion to VDACS' contribution toward the total reimbursable cost of acquiring the agricultural conservation easement as evidenced by the completed claim for reimbursement required under paragraph 1(b) of this INTERGOVERNMENTAL AGREEMENT.

- i. For any purchase of an agricultural conservation easement for which Albemarle County requests reimbursement from VDACS pursuant to this INTERGOVERNMENTAL AGREEMENT, Albemarle County shall derive its valuation of the agricultural conservation easement according to the valuation methods prescribed by ordinance or resolution.

3. Merger and Supersedure of Prior Agreement

The Parties agree that terms of any INTERGOVERNMENTAL AGREEMENT previously entered into between the Parties to govern VDACS' distribution of funds to Albemarle County in support of Albemarle County's purchase of agricultural conservation easements shall be merged into the instant INTERGOVERNMENTAL AGREEMENT, the latter of which shall supersede all former INTERGOVERNMENTAL AGREEMENTS to the extent that there are any inconsistencies between the terms of these INTERGOVERNMENTAL AGREEMENTS. Notwithstanding the language of this paragraph, VDACS shall be required to restrict the allocation amount(s) provided in paragraph 1(a) of any prior agreement(s) in addition to the current allocation amount, but shall only be required to restrict any prior allocation amount(s) until the expiration of two (2) years from the date of execution of the prior agreement(s).

4. Recertification

This INTERGOVERNMENTAL AGREEMENT pertains exclusively to VDACS' contribution of funds that the General Assembly has appropriated to VDACS through the fiscal year ending June 30, 2020. VDACS shall not contribute other funds in the future to Albemarle County except upon VDACS' recertification of Albemarle County's eligibility to receive such funds. VDACS may establish and communicate to Albemarle County certain benchmarks of program development that VDACS will impose upon Albemarle County as preconditions to Albemarle County's recertification for future contributions.

5. Governing Law

This INTERGOVERNMENTAL AGREEMENT is governed by and shall be interpreted in accordance with the laws of the Commonwealth of Virginia. In all actions undertaken pursuant to this INTERGOVERNMENTAL AGREEMENT, preferred venue shall be in the City of Richmond, Virginia, at the option of VDACS.

6. Assignment

Albemarle County shall not assign this INTERGOVERNMENTAL AGREEMENT, either in whole or in part, or any interest in an agricultural conservation easement for the purchase of which VDACS contributes funds pursuant to this INTERGOVERNMENTAL AGREEMENT, without the prior, written approval of the Grant Manager.

7. Modifications

The Parties shall not amend this INTERGOVERNMENTAL AGREEMENT, except by their mutual, written consent.

8. Severability

In the event that any provision of this INTERGOVERNMENTAL AGREEMENT is unenforceable or held to be unenforceable, then the Parties agree that all other provisions of this INTERGOVERNMENTAL AGREEMENT have force and effect and shall not be affected thereby.

In witness, whereof, the Parties hereto have executed this INTERGOVERNMENTAL AGREEMENT as of the day and year first written above.

(The rest of this page is intentionally left blank. Signatures manifesting the Parties' mutual assent to the terms contained in this INTERGOVERNMENTAL AGREEMENT appear on the next page.)

Jewel Bronaugh 12/19/19
Dr. Jewel H. Bronaugh Date
Commissioner
Virginia Department of Agriculture and
Consumer Services

[Signature] 2/24/20
County Executive Date

APPROVED AS TO FORM ONLY:

APPROVED AS TO FORM ONLY:

[Signature] 12/19/19
Assistant Attorney General Date

[Signature] 2/24/2020
County Attorney Date

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 19th day of February 2020, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in **Abington Place at Hollymead Towncenter Subdivision**, as described on the attached Additions Form AM-4.3 dated **February 19th, 2020**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Abington Place at Hollymead Towncenter Subdivision**, as described on the attached Additions Form AM-4.3 dated **February 19th, 2020**, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

* * * * *

Recorded vote:

Moved by: Ms. McKeel Seconded by: Ms. Mallek

Yeas: Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, Ms. Price, Mr. Gallaway,
Nays: None
Absent: None

A Copy Teste:

Claudette K. Borgersen, Clerk
Board of County Supervisors

In the County of Albemarle

By resolution of the governing body adopted February 19, 2020

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee

Signed (County Official):

Report of Changes in the Secondary System of State Highways

**Project/Subdivision Abington Place at Hollymead
Towncenter**

Type Change to the Secondary System of State Highways: Addition

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change: New subdivision street
Pursuant to Code of Virginia Statute: 33.2-705, 33.2-334

Street Name and/or Route Number

◆ **Livingston Drive, State Route Number 1756**

Old Route Number: 0

- From: Abington Dr (PVT)

To: 0.09 Miles West to Rt 1501, Deerwood Drive, a distance of: 0.09 miles.

Recordation Reference: DB 5126: PG 0081-0086

Right of Way width (feet) = 0

Street Name and/or Route Number

◆ **Lockwood Drive, State Route Number 1755**

Old Route Number: 0

- From: Community Street (PVT)

To: 0.09 Miles South to Rt 1719, Towncenter Blvd, a distance of: 0.09 miles.

Recordation Reference: DB 5126: PG 0081-0086

Right of Way width (feet) = 0

Street Name and/or Route Number

◆ **Livingston Drive, State Route Number 1756**

Old Route Number: 0

- From: Rt 1755, Lockwood Drive

To: 0.04 Miles West to Abington Dr (PVT), a distance of: 0.04 miles.

Recordation Reference: DB 5126: PG 0081-0086

Right of Way width (feet) = 0

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 19th day of February 2020, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in **Dunlora V Subdivision**, as described on the attached Additions Form AM-4.3 dated **February 19th, 2020**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Dunlora V Subdivision**, as described on the attached Additions Form AM-4.3 dated **February 19th, 2020**, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

* * * * *

Recorded vote:

Moved by: Ms. McKeel Seconded by: Ms. Mallek

Yeas: Ms. LaPisto-Kirtley, Ms. Mallek, Ms. McKeel, Ms. Palmer, Ms. Price, Mr. Galloway
Nays: None
Absent: None

A Copy Teste:

Claudette K. Borgersen, Clerk
Board of County Supervisors

In the County of Albemarle

By resolution of the governing body adopted February 19, 2020

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee

Signed (County Official):

Report of Changes in the Secondary System of State Highways

Project/Subdivision Dunlora V

Type Change to the Secondary System of State Highways: Addition

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change: New subdivision street
Pursuant to Code of Virginia Statute: 33.2-705, 33.2-334

Street Name and/or Route Number

◆ **Fowler Ridge Court, State Route Number 1778**

Old Route Number: 0

- From: Rt 1777, Valcrest Lane

To: 0.07 Miles West to ESM/CDS, a distance of: 0.07 miles.

Recordation Reference: DB 4839: PG 152

Right of Way width (feet) = 0

Street Name and/or Route Number

◆ **Valcrest Lane, State Route Number 1777**

Old Route Number: 0

- From: Rt 1709, Shepards Ridge Road

To: 0.05 Miles South to Rt 1778, Fowler Ridge Ct, a distance of: 0.05 miles.

Recordation Reference: DB 4839: PG 152

Right of Way width (feet) = 0

Street Name and/or Route Number

◆ **Valcrest Lane, State Route Number 1777**

Old Route Number: 0

- From: Rt 1778, Fowler Ridge Court

To: 0.02 Miles South to ESM/CDS, a distance of: 0.02 miles.

Recordation Reference: DB 4839: PG 152

Right of Way width (feet) = 0

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR HS2019-00019 200 IPSWICH PLACE**

BE IT RESOLVED that, upon consideration of the Memorandum prepared in conjunction with the application and the attachments thereto, including staff's supporting analysis, any written comments received, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125 foot front, side, and rear yards required for a homestay in the Rural Areas zoning district for HS2019-00019 200 Ipswich Place, subject to the conditions attached hereto.

* * *

HS 2019-00019 200 Ipswich Place Special Exception Conditions

1. No more than two (2) guest rooms may be rented for homestay use within the existing residence as depicted on the Parking and House Location Exhibit dated January 24, 2020.
2. Parking for homestay guests is limited to the existing parking areas as depicted on the Parking and House Location Exhibit dated January 24, 2020.

**RESOLUTION TO APPROVE A LEASE
FOR 206-216 ALBEMARLE SQUARE**

WHEREAS, the Board finds that it is in the best interest of the County to enter into a lease for property located at 206-216 Albemarle Square, Charlottesville, VA 22901, for the Office of Voter Registration and Elections (the Office of the General Registrar and the Board of Elections).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia hereby approves entering into a lease for property located at 206-216 Albemarle Square, Charlottesville, VA 22901, for the Albemarle County's Office of Voter Registration and Elections, and authorizes the County Executive to execute the lease on behalf of the County after approval as to form and substance by the County Attorney, and contingent on approval of an appropriation by the Board of Supervisors to appropriate the required FY 20 funding.

ORDINANCE NO. 20-4(2)

AN ORDINANCE TO AMEND ARTICLE 2, DOGS, OF CHAPTER 4, ANIMALS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Article 2, Dogs, of Chapter 4, Animals, is hereby amended as follows:

By Amending and Renaming:

Sec. 4-225 Dog running at large is prohibited; when a dog is required to be leashed.

Chapter 4. Animals**Article 2. Dogs****Division 4. Dogs Running at Large and Dogs Damaging Livestock or Poultry****Sec. 4-225 Dog running at large is prohibited; when a dog is required to be leashed.**

An owner shall not allow his dog to run at large in the County, subject to the following:

- A. *When a dog is deemed to run at large.* For the purposes of this section, a dog is deemed to “run at large” while roaming, running, or self-hunting off the property of its owner or custodian and the dog is not firmly secured by a physical leash or lead attached to a collar or harness and under the control of a responsible person capable of physically restraining the dog; an electronic collar or other similar electronic device does not qualify as a leash or lead. A “dog that is off the property of its owner or custodian” includes, but is not limited to, any dog that is on a public right-of-way, public road, public sidewalk, or public trail that is under the control of the County, the State, or another public entity, pursuant to an easement on the property of the dog’s owner or custodian. The owner or custodian of a dog may assert as an affirmative defense that the owner or the occupant of other property gave written permission to the owner or custodian of the dog to be on the property, and the dog is under the owner’s or custodian’s immediate control while it is on the property for which the permission has been given.
- B. *When a dog is not considered to be running at large.* A dog is not considered to “run at large” in the following circumstances:
 1. *Hunting.* If, during the applicable hunting season, it is on a bona fide hunt in the company of a licensed hunter or the dog is participating in an organized fox or other game hunt.
 2. *Field trials or training.* During field trials or formal obedience, agility, or similar training periods when the dog is accompanied by its owner or custodian.
 3. *Fenced dog park or exercise area.* When the dog is in a securely fenced, specifically designated dog park or dog exercise area established by the County or another governmental entity, a homeowner’s association, or a community organization, where the fencing is designed to prevent a dog from escaping.
 4. *Service dog; when leashing is not required.* When the dog is a service animal whose handler, because of a disability, is unable to use a harness, leash, or other tether, or the use of such a device would interfere with the service dog’s safe and effective performance of work or tasks, provided that the service dog is otherwise under the handler’s control through voice control, signals, or other effective means.
 5. *Off-season hunting dogs.* When the dog is a hunting dog and is being exercised during the non-hunting season and is under the immediate control of one or more dog handlers capable of maintaining control of the dogs, provided the handler has the express permission of the owner or occupant of the property on which the dogs are being exercised.
 6. *Public service training.* During search and rescue and similar public service training when the dog is accompanied by its owner or custodian, or by a qualified handler, provided the owner,

custodian, or handler has the express permission of the owner or occupant of the property on which the dogs are being trained.

7. *Farm dogs.* When the dog is a working farm dog that is either guarding or herding cows, fowl, goats, sheep, swine, or other domestic animals normally raised on a farm.

C. *Seizure, impoundment, and disposition.* Any dog observed or captured while unlawfully running at large and not in the presence of its owner or custodian shall be seized, impounded, and disposed pursuant to Virginia Code § 3.2-6546(B), (C), and (D).

(§ 4-225: (§ 4-200: 7-19-73; 8-22-73; 9-26-73; 11-15-73; 12-19-73; 1-3-74; 1-23-74; 3-24-77; 5-22-74; 10-9-74, 1-22-75; 3-10-76; 4-21-76; 12-7-77; 5-22-78; 6-21-78; 10-7-81; 5-21-86; 5-13-87; 9-16-87; 11-4-87; 12-16-87; 9-8-88; Ord of 1-17-90; Ord. of 8-8-90; Ord. No. 94-4(2), 8-17-94; Ord. No. 94-4(3), 12-7-94; Ord. No. 95-4(1), 1-4-95; Ord. No. 95-4(2), 9-6-95; Code 1988, § 4-19; Ord. 98-A(1), 8-5-98; Ord. 98-4(1), 12-2-98; Ord. 00-4(1), 5-3-00; Ord. 03-4(2), 3-5-03; Ord. 04-4(1), 5-12-04; Ord. 05-4(1), 12-7-05; Ord. 06-4(1), 12-6-06, § 4-213; Ord. 09-4(1), 7-8-09; Ord. 09-4(2), 10-7-09; Ord. 12-4(1), 4-11-12)(§ 4-213: Code 1967, § 4-26; 4-13-88; Code 1988, § 4-29; Ord. 98-A(1), 8-5-98, § 4-309; Code 1967, § 4-31; 4-13-88; Code 1988, § 4-34; Ord. 98-A(1), 8-5-98, § 4-314; Code 1967, § 4-32; 4-13-88; Code 1988, § 4-35; Ord. 98-A(1), 8-5-98; Ord. 05-4(1), 12-7-05, § 4-315; Ord. 08-4(2), 9-3-08, § 4-308; Ord. 09-4(1), 7-8-09); § 4-225, Ord. 18-4(1), 10-3-18; Ord. 20-4(2), 2-19-20)

State law reference - Va. Code §§ 3.2-6538, 3.2-6539, 3.2-6544(B)

**ORDINANCE NO. 20-A(3)
ZMA 2019-00007**

**AN ORDINANCE TO AMEND THE ZONING MAP FOR
TAX PARCELS 078E00000000A2, 078E00000000A4, 078E0000100100,
078E0000100200, 078E0000100300, 078E0000100400, 078E0000100500,
078E0000100600, 078E0000100700, 078E0000100800, 078E0000100900,
078E0000101000, 078E0000101100, 078E0000101200, 078E0000101300,
078E0000101400, 078E0000101500, 078E0000101600, 078E0000101700,
078E0000101800, AND 078E0000101900**

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that upon consideration of the transmittal summary and staff report prepared for ZMA 2019-00007 and their attachments, including the proffers dated January 9, 2020, the information presented at the public hearing, any written comments received, the material and relevant factors in Virginia Code § 15.2-2284 and County Code § 18-33.12, and for the purposes of public necessity, convenience, general welfare and good zoning practices, the Board hereby approves ZMA 2019-00007 with proffers dated January 9, 2020.

* * *

PROFFER FORM FOR FONTANA PHASE 4C

Date: January 9, 2020
ZMA # 2019-00007

Tax Map and Parcel Numbers: 078E00000000A2, 078E00000000A4, 078E0000100100, 078E0000100200, 078E0000100300, 078E0000100400, 078E0000100500, 078E0000100600, 078E0000100700, 078E0000100800, 078E0000100900, 078E0000101000, 078E0000101100, 078E0000101200, 078E0000101300, 078E0000101400, 078E0000101500, 078E0000101600, 078E0000101700, 078E0000101800, and 078E0000101900

Owner of Record: **HIGHLAND PARK INVESTMENTS, LLC**

10.88 Acres zoned R4 (Amendment to proffer statement)

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned. These conditions are proffered as a part of the requested rezoning and it is acknowledged that such conditions are reasonable. This proffer statement shall amend and supersede all previous proffer statements (ZMA2004-18 and ZMA 2011-01) for Fontana Phase 4C for the parcels listed.

1. **Conformity with Plans:** Fontana Phase 4C shall be developed in general accord with the plans entitled, "Fontana- Phase 4C Rezoning Plan," prepared by Terra Engineering and Land Solutions, dated August 29, 2005, and last revised July 30, 2007, a copy of which is attached hereto as Exhibit A, (the "Plan"). No more than thirty-four (34) dwelling units shall be developed in Fontana Phase 4C.
2. **Final Grading Plan:** The Owner shall submit a final grading plan meeting the requirements of this section (hereinafter, the "Final Grading Plan") with the application for each subdivision of the dwelling units shown on the Plan identified in Proffer 1 above. The Final Grading Plan shall show existing and proposed topographic features to be considered in the development of the proposed subdivision. The Final Grading Plan shall be approved by the County Engineer prior to the approval of the first preliminary subdivision plat. The subdivision shall be graded as shown on the approved Final Grading Plan. No certificate of occupancy shall be issued for any dwelling on a lot where the County Engineer has determined the lot is not graded consistent with the approved Final Grading Plan. The Final Grading Plan shall satisfy the following:
 - A. The Final Grading Plan shall show all proposed streets, building sites, surface drainage, driveways, trails, and other features the County Engineer determines are needed to verify that the Plan satisfies the requirements of this proffer.
 - B. The Final Grading Plan shall be drawn to scale not greater than one (1) inch equals fifty (50) feet.
 - C. All proposed grading shall be shown at contour intervals not greater than two (2) feet.
 - D. All concentrated surface drainages over lots shall be clearly shown with the proposed

- grading. All proposed grading shall be shown to assure that surface drainage can provide adequate relief from flooding of dwellings in the event a storm sewer fails. Graded slopes on lots proposed to be planted with turf grasses (lawns) shall not exceed a gradient of three (3) feet horizontal distance for each one (1) foot of vertical rise or fall (3: 1). Steeper slopes shall be vegetated with low maintenance vegetation as determined to be appropriate by the County's program authority in its approval of an erosion and sediment control plan for the land disturbing activity. These steeper slopes shall not exceed a gradient of two (2) feet of horizontal distance for each one (1) foot of vertical rise or fall (2:1), unless the County Engineer finds that the grading recommendations for steeper slopes have adequately addressed the impacts.
- E. Surface drainage from one-half (1/2) acre of land or from three (3) or more lots, whichever is greater in area, shall be collected in a storm sewer or directed to a drainage way outside of the lots.
 - F. All drainage from streets shall be carried across lots in a storm sewer to a point beyond the rear of the building site.
 - G. The Final Grading Plan shall demonstrate that an area at least ten (10) feet in width, or to the lot line if the distance is less than ten (10) feet, from the portion of the structure facing the street has grades no steeper than ten (10) percent adjacent to possible entrances that shall not be served by a stairway. This graded area also shall extend from the entrances to the driveways or walkways connecting the dwelling to the street.
 - H. Any requirement of this condition may be waived by the County Engineer by submitting a waiver request with the preliminary plat. If such a request is made, it shall include: (i) a justification for the request contained in a certified engineer's report; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; and (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable. In reviewing a waiver request, the County Engineer shall consider whether the alternative proposed by the Owner satisfies the purpose of the requirement to be waived to at least an equivalent degree. In approving a waiver, the County Engineer shall find that requiring compliance with the requirement of this condition would not forward the purposes of the County's Subdivision and Water Protection Ordinances or otherwise serve the public interest; and granting the waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the Project, and to the land adjacent thereto.
 - I. The Owner may request that the Plan be amended at any time. All amendments shall be subject to the review and approval by the County Engineer.
3. **Affordable Housing:** The Owner shall contribute \$2,809.00 cash per dwelling unit, up to an aggregate maximum contribution of \$95,500.00 (equivalent to \$19,100 cash per dwelling unit as cash in lieu of five (5) affordable dwelling units) to the County for the purpose of affordable housing. Each cash contribution shall be due and payable with each application for a building permit. Each cash contribution shall be used for the purpose of funding affordable housing

programs in Albemarle County. If this cash contribution has not been exhausted by the County for the stated purpose within ten (10) years after the last payment of the contribution, all unexpended funds shall be applied to any public use serving Neighborhood 3 Pantops.

4. **Trees:** At least one hundred-seventy (170) trees shall be planted or retained on the subdivided lots. Trees shall be distributed among all lots with a minimum of 5 trees per lot. The five trees to be counted on each lot shall be marked in the field for inspection purposes. The owner shall not request a certificate of occupancy until a final zoning inspection is performed and all required trees are in place.

Standard for trees to be retained: Deciduous trees to be retained shall be at least a 1 ½ inch caliper d.b.h. and non-deciduous trees shall be at least four (4) feet in height. All trees to be retained shall be identified on erosion and sediment control plans, final grading plans, and road plans. A tree conservation plan in accordance with Section 32.7.9.4. of the Zoning Ordinance shall be submitted and approved prior to approval of any erosion and sediment control permit for grading.

Standards for trees to be planted: All trees shall be planted in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation. At planting, deciduous trees shall be at least a 1½ inches in caliper d.b.h.; non-deciduous trees shall be at least four (4) feet in height.

5. **Pedestrian Paths:** Pedestrian paths in the general location shown on the Plan, or as approved on any final site plan or plat, shall be constructed according to the standards for a Class B- Type 1 primitive nature trail in the Albemarle County Design Standards Manual. Pedestrian paths shall be constructed concurrently with other public improvements for each phase of development and shall be completed when 50% of the dwelling units within each phase have received certificates of occupancy.
6. **Cash proffer:** Cash proffer: The Owner shall contribute Seventeen Thousand Five Hundred and 0/100 Dollars (\$17,500.00), as adjusted by Proffer 7 below, for each dwelling unit in excess of the nine (9) dwelling units previously allowed by right. This cash contribution shall begin after the issuance of the building permit for the ninth dwelling unit and prior to (or at the time of) the issuance of the building permit for the tenth dwelling unit. Credit will be applied for any cash proffer payments made under this proffer in advance of this proffer's approval.

The cash contribution shall be paid for each dwelling unit prior to or at the time of issuance of a building permit for each dwelling unit. If this cash contribution has not been exhausted by the County for the stated purpose within five (5) years after the date, all unexpended funds shall be applied to any public use serving Neighborhood 3 Pantops.

7. **Annual Adjustment of Cash Proffers:** Beginning January 1, 2008, the amount of each cash contribution required herein shall be adjusted annually until paid, to reflect any increase or decrease for the preceding calendar year in the Marshall and Swift Building Cost Index (the "MSI"). In no event shall any cash contribution amount be adjusted to a sum less than the amount initially established by these proffers. The annual adjustment shall be made by multiplying the proffered cash contribution amount for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the preceding calendar year, and the denominator of which shall be the Index as of December 1 in the year preceding the calendar year most recently ended. For each cash contribution that is being paid in increments, the unpaid

incremental payments shall be correspondingly adjusted each year.


8. **Omitted. This proffer has been satisfied.**
9. **Architectural Standards:** The Owner shall require that all structures be constructed using a range of earth-tone colors, including cream, for facade treatment of the buildings and dark, non-reflective materials for roofs. The colors for the facade treatments and the colors and materials for the roofs shall be subject to prior approval by the Director of Planning.
10. **Omitted. This proffer has been satisfied.**

(Signature Pages to Follow)

WITNESS the following signature:

OWNER of Tax Map and Parcels 078E0000000A2, 078E0000000A4, 078E0000100100, 078E0000100200, 078E0000100300, 078E0000100400, 078E0000100500, 078E0000100600, 078E0000100700, 078E0000100800, 078E0000100900, 078E0000101000, 078E0000101100, 078E0000101200, 078E0000101300, 078E0000101400, 078E0000101500, 078E0000101600, 078E0000101700, 078E0000101800, and 078E0000101900:

HIGHLAND PARK INVESTMENTS, LLC, a Virginia limited liability company

By: 
Alan R. Taylor, Its President

Date: 1/9/2020